

FIFTY NINTH LEGISLATURE - REGULAR SESSION

FIFTY SEVENTH DAY

House Chamber, Olympia, Monday, March 6, 2006

The House was called to order at 10:00 a.m. by the Speaker (Representative Lovick presiding). The Clerk called the roll and a quorum was present.

The flag was escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Kimberly Lusk and Brenda Martinez. The Speaker (Representative Lovick presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Pastor Dennis Magnuson, Light of the Hill United Methodist Church, Puyallup.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

RESOLUTIONS

HOUSE RESOLUTION NO. 2006-4709, By Representative Walsh, Hankins, Skinner, Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Chopp, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Sommers, Springer, Strow, B. Sullivan, P. Sullivan, Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Williams, Wood and Woods

WHEREAS, It is the policy of the House of Representatives to recognize excellence in all fields of endeavor; and

WHEREAS, Rickey Dale Bowman exhibited true excellence during his tenure as a state employee; and

WHEREAS, Rick Bowman was born October 4, 1954, in Burlingame, California, to Helen and Wilbur Bowman, and had two sisters, Valoren and Cheryl, and one brother, Buddy; and

WHEREAS, Rick Bowman spent his younger years in Seaside and Jewell, Oregon, and graduated from Jewell High School in 1972; and

WHEREAS, Rick Bowman served in the United States Army from 1974 to 1982, eight years of those as an Orthopedic Specialist and Operating Room Specialist; and

WHEREAS, Rick Bowman attended Clover Park Vocational Technical Institute from 1982 to 1985 and graduated as a Computer Maintenance Technician; and

WHEREAS, Rick Bowman became father to Allison Leigh Bowman in 1988, and husband to Mary in 1998; and

WHEREAS, Rick Bowman came to work for the Legislature in 1985; and

WHEREAS, Rick Bowman served the Legislature for 20 years, with dedication and cheerfulness, by supporting the members and staff in their use of information technology; and

WHEREAS, Rick Bowman was a humble and warm man, with an infectious smile and wit, and an incredible and enthusiastic zest for life; and

WHEREAS, Rick Bowman, whatever circumstances he found himself in, was always ready to listen, to encourage, and to fight for what he thought was right; and

WHEREAS, Rick Bowman was respected for his sincerity, his honesty, his kindness, and his friendship; and

WHEREAS, Rick Bowman loved God, his family, fantasy football, people, music, and travel; and

WHEREAS, Rick Bowman exhibited great strength and faith in the last battle of his life, spending more time comforting his family and friends, than being comforted;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives of the state of Washington honor Rick Bowman for his many years of dedicated service, his personal and professional integrity, and his faithfulness to the principles and ideals that were the basis of his character and his life; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Mary Bowman and Allison Bowman.

Representative Walsh moved the adoption of the resolution.

Representatives Walsh and Hunt spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4709 was adopted.

HOUSE RESOLUTION NO. 2006-4717, By Representatives Kenney, Cody, Green, Moeller, Conway, Morrell, Skinner and Cox

WHEREAS, Washington State is the birthplace for long-term dialysis treatment for people with kidney disease; and

WHEREAS, According to the Northwest Kidney Centers, more than 20 million Americans, one in nine adults, have chronic kidney disease; and

WHEREAS, Globally, more than 500 million individuals have some degree of chronic kidney disease; and

WHEREAS, The International Federation of Kidney Foundations and the International Society of Nephrology have jointly declared March 9, 2006, as World Kidney Day in an international effort to address treatment and prevention of kidney and cardiovascular disease; and

WHEREAS, When individuals are diagnosed, they are too often treated suboptimally or not at all, and in most parts of the world, once kidney failure occurs, patients do not have access to treatment or transplantation and simply die; and

WHEREAS, High risk groups include those with diabetes, hypertension, and family history of kidney disease; and

WHEREAS, African Americans, Hispanics, Pacific Islanders, Native Americans, and seniors are at an increased risk; and

WHEREAS, Early detection can help prevent the progression of kidney disease to kidney failure. The earlier kidney disease is detected, the better the chance of (1) slowing or stopping its progression and (2) avoiding long hospital stays and dialysis; and

WHEREAS, The public health mandate is clear that detection and prevention are the most cost-effective methods to address chronic kidney disease and its impact on diabetes and cardiovascular disease;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives observe March 9, 2006, as World Kidney Day and encourage increased awareness of kidney disease.

HOUSE RESOLUTION NO. 4717 was adopted.

INTRODUCTION & FIRST READING

2SSB 6793 by Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Brown, Brandland, McAuliffe, Thibaudeau, Rockefeller and Rasmussen)

AN ACT Relating to specifying roles and responsibilities with respect to the treatment of persons with mental disorders; amending RCW 71.24.016, 71.24.045, 71.24.300, 71.24.310, 71.24.320, 71.24.3201, 71.24.330, 71.24.360, 72.23.025, 71.05.230, 71.05.300, and 71.05.320; reenacting and amending RCW 71.24.025 and 71.24.035; adding a new section to chapter 71.24 RCW; adding a new section to chapter 71.05 RCW; creating new sections; providing an effective

date; providing an expiration date; and declaring an emergency.

There being no objection, SECOND SUBSTITUTE SENATE BILL NO. 6793 was read the first time, the rules were suspended and the bill was placed on the Second Reading calendar.

There being no objection, the House advanced to the eighth order of business.

There being no objection, the Rules Committee was relieved of SUBSTITUTE SENATE BILL NO. 6512, and the bill was placed on the Second Reading calendar.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SUBSTITUTE SENATE BILL NO. 6369, By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Mulliken and Rasmussen)

Providing excise tax exemptions for water services provided by small water systems.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire and Bailey spoke in favor of passage of the bill.

MOTION

On motion of Representative Rodne, Representative Curtis was excused.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6369.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6369 and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Halder, Hankins, Hasegawa, Hinkle,

Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Sommers - 1.

Excused: Representative Curtis - 1.

SUBSTITUTE SENATE BILL NO. 6369, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 6781, By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Pflug, Fraser, Parlette, Shin and Schoesler)

Modifying the excise taxation of environmental remediation services.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6781.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6781 and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow,

Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Dickerson - 1.

Excused: Representative Curtis - 1.

SUBSTITUTE SENATE BILL NO. 6781, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2695, with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 29A.60.165 and 2005 c 243 s 8 are each amended to read as follows:

(1) If the voter neglects to sign the outside envelope of an absentee or provisional ballot, the auditor shall notify the voter by ~~((telephone))~~ first class mail and advise the voter of the correct procedures for completing the unsigned affidavit. ~~((If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter.))~~ If the absentee ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must either:

(a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or

(b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.

(2)(a) If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by ~~((telephone))~~ first class mail, enclosing a voter registration form, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. ~~((If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter.))~~ If the absentee ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must ~~((either~~

~~(i) Appear in person and sign)) provide a new registration form no later than the day before the certification of the primary or election (or~~

~~(ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. If the signature on the copy of the affidavit does not match the signature on file, the voter must appear in person and sign a new registration form no later than the day before the certification of the primary or election in order for the ballot to be counted)).~~

(b) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.17 RCW and may be disclosed to interested parties on written request."

On page 1, line 2 of the title, after "requirements;" strike the remainder of the title and insert "and amending RCW 29A.60.165."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2695 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 80.60.010 and 2000 c 158 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Commission" means the utilities and transportation commission.

(2) "Customer-generator" means a user of a net metering system.

(3) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(4) "Electric cooperative" means a cooperative or association organized under chapter 23.86 or 24.06 RCW.

(5) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.

(6) "Irrigation district" means an irrigation district under chapter 87.03 RCW.

(7) "Municipal electric utility" means a city or town that owns or operates an electric utility authorized by chapter 35.92 RCW.

(8) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator ~~((that is fed back to the electric utility))~~ over the applicable billing period.

(9) "Net metering system" means a fuel cell ~~((or)), a facility that produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy, and that:~~

~~((a))~~ ~~((Uses as its fuel either solar, wind, or hydropower;~~

~~((b))~~ Has ~~((a))~~ an electrical generating capacity of not more than ~~((twenty-five))~~ one hundred kilowatts;

~~((c))~~ ~~((b))~~ Is located on the customer-generator's premises;

~~((d))~~ ~~((c))~~ Operates in parallel with the electric utility's transmission and distribution facilities; and

~~((e))~~ ~~((d))~~ Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(10) "Port district" means a port district within which an industrial development district has been established as authorized by Title 53 RCW.

(11) "Public utility district" means a district authorized by chapter 54.04 RCW.

(12) "Renewable energy" means energy generated by a facility that uses water, wind, solar energy, or biogas from animal waste as a fuel.

Sec. 2. RCW 80.60.020 and 2000 c 158 s 2 are each amended to read as follows:

An electric utility:

(1) Shall offer to make net metering available to eligible customers-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals ~~((0.1))~~ 0.25 percent of the utility's peak demand during 1996 ~~((of which not less than 0.05 percent shall be attributable to net metering systems that use as its fuel either solar, wind, or hydropower))~~. On January 1, 2014, the cumulative generating capacity available to net metering systems will equal 0.5 percent of the utility's peak demand during 1996. Not less than one-half of the utility's 1996 peak demand available for net metering systems shall be reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy;

(2) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:

(a) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(b) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(3) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment that:

(a) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(b) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base.

Sec. 3. RCW 80.60.030 and 1998 c 318 s 4 are each amended to read as follows:

Consistent with the other provisions of this chapter, the net energy measurement must be calculated in the following manner:

(1) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(3) If electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with RCW 80.60.020; and

(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period.

~~((At the beginning))~~ On April 30th of each calendar year, any remaining unused kilowatt-hour credit accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator.

Sec. 4. RCW 80.60.040 and 2000 c 158 s 3 are each amended to read as follows:

(1) A net metering system used by a customer-generator shall include, at the customer-generator's own expense, all equipment necessary to meet applicable safety, power quality, and interconnection requirements established by the national electrical code, national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories.

(2) The commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for customer-generators, including limitations on the number of customer generators and total capacity of net metering systems that may be interconnected to any distribution feeder line, circuit, or network that the commission or governing body determines are necessary to protect public safety and system reliability.

(3) An electric utility may not require a customer-generator whose net metering system meets the standards in subsections (1) and (2) of this section to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional

liability insurance. However, an electric utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metering system, or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party."

On page 1, line 1 of the title, after "metering;" strike the remainder of the title and insert "and amending RCW 80.60.010, 80.60.020, 80.60.030, and 80.60.040."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representative Morris spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 2352 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2352, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Hasegawa - 1.

Excused: Representative Curtis - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2402, with the following amendment:

On page 5, line 7, after "with" strike "municipal" and insert "city"

On page 5, line 29, after "with" strike "municipal" and insert "city"

On page 5, line 32, after "application, the" strike "municipal" and insert "city"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2402 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representative Morris spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2402 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2402, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 2402, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2917, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70A.177 and 2004 c 207 s 1 are each amended to read as follows:

(1) A county or a city may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance under RCW 36.70A.170. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Except as provided in subsection (3) of this section, a county or city should encourage nonagricultural uses to be limited to lands with poor soils or otherwise not suitable for agricultural purposes.

(2) Innovative zoning techniques a county or city may consider include, but are not limited to:

(a) Agricultural zoning, which limits the density of development and restricts or prohibits nonfarm uses of agricultural land and may allow accessory uses, including nonagricultural accessory uses and activities, that support, promote, or sustain agricultural operations and production, as provided in subsection (3) of this section;

(b) Cluster zoning, which allows new development on one portion of the land, leaving the remainder in agricultural or open space uses;

(c) Large lot zoning, which establishes as a minimum lot size the amount of land necessary to achieve a successful farming practice;

(d) Quarter/quarter zoning, which permits one residential dwelling on a one-acre minimum lot for each one-sixteenth of a section of land; and

(e) Sliding scale zoning, which allows the number of lots for single-family residential purposes with a minimum lot size of one acre to increase inversely as the size of the total acreage increases.

(3)~~((a))~~ Accessory uses allowed under subsection (2)(a) of this section shall comply with the following:

~~((i))~~ (a) Accessory uses shall be located, designed, and operated so as ~~((not))~~ to ~~not~~ interfere with ~~((natural resource land uses and shall be accessory to the growing of crops or raising of animals))~~, and to support the continuation of, the overall agricultural use of the property and neighboring properties, and shall comply with the requirements of this chapter;

~~((ii))~~ (b) Accessory ~~((commercial or retail))~~ uses ~~((shall predominately produce, store, or sell regionally produced))~~ may include:

(i) Agricultural accessory uses and activities, including but not limited to the storage, distribution, and marketing of regional agricultural products from one or more producers, ~~((products derived from regional agricultural production;))~~ agriculturally related experiences, or ~~((products produced on-site. Accessory commercial and retail uses shall offer for sale predominantly products or services produced on-site))~~ the production, marketing, and distribution of

value-added agricultural products, including support services that facilitate these activities; and

~~((iii) Accessory uses may operate out of existing or new buildings with parking and other supportive uses)) (ii) Nonagricultural accessory uses and activities as long as they are consistent with the size ~~(and)~~, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site ~~((but)), Nonagricultural accessory uses and activities, including new buildings, parking, or supportive uses, shall not be located outside the general area already developed for buildings and residential uses and shall not otherwise convert more than one acre of agricultural land to nonagricultural uses(-~~~~

~~(b) Accessory uses may include compatible commercial or retail uses including, but not limited to:~~

- ~~(i) Storage and refrigeration of regional agricultural products;~~
- ~~(ii) Production, sales, and marketing of value-added agricultural products derived from regional sources;~~
- ~~(iii) Supplemental sources of on-farm income that support and sustain on-farm agricultural operations and production;~~
- ~~(iv) Support services that facilitate the production, marketing, and distribution of agricultural products; and~~
- ~~(v) Off-farm and on-farm sales and marketing of predominately regional agricultural products and experiences, locally made art and arts and crafts, and ancillary retail sales or service activities); and~~

(c) Counties and cities have the authority to limit or exclude accessory uses otherwise authorized in this subsection (3) in areas designated as agricultural lands of long-term commercial significance.

(4) This section shall not be interpreted to limit agricultural production on designated agricultural lands."

On page 1, line 1 of the title, after "lands;" strike the remainder of the title and insert "and amending RCW 36.70A.177."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2917 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Simpson and Schindler spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2917 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2917, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Straw, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

SUBSTITUTE HOUSE BILL NO. 2917, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2991, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.61.130 and 1969 c 54 s 1 are each amended to read as follows:

(1) A metropolitan park district has the right of eminent domain, and may purchase, acquire and condemn lands lying within or without the boundaries of said park district, for public parks, parkways, boulevards, aviation landings and playgrounds, and may condemn such lands to widen, alter and extend streets, avenues, boulevards, parkways, aviation landings and playgrounds, to enlarge and extend existing parks, and to acquire lands for the establishment of new parks, boulevards, parkways, aviation landings and playgrounds. The right of eminent domain shall be exercised and instituted pursuant to resolution of the board of park commissioners and conducted in the same manner and under the same procedure as is or may be provided by law for the exercise of the power of eminent domain by incorporated cities and towns of the state of Washington in the acquisition of property rights: PROVIDED, HOWEVER, Funds to pay for condemnation allowed by this section shall be raised only as specified in this chapter.

(2) The board of park commissioners shall have power to employ counsel, and to regulate, manage and control the parks, parkways, boulevards, streets, avenues, aviation landings and playgrounds under its control, and to provide for park ~~(police)~~ police, for a secretary of the board of park commissioners and for all necessary employees, to fix their salaries and duties.

(3) The board of park commissioners shall have power to improve, acquire, extend and maintain, open and lay out, parks, parkways, boulevards, avenues, aviation landings and playgrounds, within or

without the park district, and to authorize, conduct and manage the letting of boats, or other amusement apparatus, the operation of bath houses, the purchase and sale of foodstuffs or other merchandise, the giving of vocal or instrumental concerts or other entertainments, the establishment and maintenance of aviation landings and playgrounds, and generally the management and conduct of such forms of recreation or business as it shall judge desirable or beneficial for the public, or for the production of revenue for expenditure for park purposes; and may pay out moneys for the maintenance and improvement of any such parks, parkways, boulevards, avenues, aviation landings and playgrounds as now exist, or may hereafter be acquired, within or without the limits of said city and for the purchase of lands within or without the limits of said city, whenever it deems the purchase to be for the benefit of the public and for the interest of the park district, and for the maintenance and improvement thereof and for all expenses incidental to its duties: PROVIDED, That all parks, boulevards, parkways, aviation landings and playgrounds shall be subject to the police regulations of the city within whose limits they lie.

(4) For all employees, volunteers, or independent contractors, who may, in the course of their work or volunteer activity with the park district, have unsupervised access to children or vulnerable adults, or be responsible for collecting or disbursing cash or processing credit/debit card transactions, park districts shall establish by resolution the requirements for a record check through the Washington state patrol criminal identification system under RCW 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of investigation, including a fingerprint check using a complete Washington state criminal identification fingerprint card. The park district shall provide a copy of the record report to the employee, volunteer, or independent contractor. When necessary, as determined by the park district, prospective employees, volunteers, or independent contractors may be employed on a conditional basis pending completion of the investigation. If the prospective employee, volunteer, or independent contractor has had a record check within the previous twelve months, the park district may waive the requirement upon receiving a copy of the record. The park district may in its discretion require that the prospective employee, volunteer, or independent contractor pay the costs associated with the record check."

On page 1, line 2 of the title, after "contractors;" strike the remainder of the title and insert "and amending RCW 35.61.130."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2991 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Darneille spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 2991 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2991, as amended by the Senate and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 96.

Voting nay: Representative Ericksen - 1.

Excused: Representative Curtis - 1.

HOUSE BILL NO. 2991, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 3122, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that employees of the department of social and health services who provide child protective, child welfare, and adult protective services are sometimes faced with highly volatile, hostile, and/or threatening situations during the course of performing their official duties. The legislature finds that the work group convened by the department of social and health services pursuant to chapter 389, Laws of 2005, has made various recommendations regarding policies and protocols to address the safety of workers. The legislature intends to implement the work group's recommendations for statutory changes in recognition of the sometimes hazardous nature of employment in child protective, child welfare, and adult protective services.

NEW SECTION. Sec. 2. A new section is added to chapter 74.04 RCW to read as follows:

(1) For purposes of this section only, "assault" means an unauthorized touching of a child protective, child welfare, or adult protective services worker employed by the department of social and health services resulting in physical injury to the employee.

(2) In recognition of the hazardous nature of employment in child protective, child welfare, and adult protective services, the legislature hereby provides a supplementary program to reimburse employees of the department, for some of their costs attributable to their being the victims of assault while in the course of discharging their assigned duties. This program shall be limited to the reimbursement provided in this section.

(3) An employee is only entitled to receive the reimbursement provided in this section if the secretary of social and health services, or the secretary's designee, finds that each of the following has occurred:

(a) A person has assaulted the employee while the employee was in the course of performing his or her official duties and, as a result thereof, the employee has sustained demonstrated physical injuries which have required the employee to miss days of work;

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment; and

(c) The department of labor and industries has approved the employee's workers' compensation application pursuant to chapter 51.32 RCW.

(4) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(5) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(6) The employee shall not be entitled to the reimbursement provided in subsection (4) of this section for any workday for which the secretary, or the secretary's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(7) The reimbursement shall only be made for absences which the secretary, or the secretary's designee, believes are justified.

(8) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(9) All reimbursement payments required to be made to employees under this section shall be made by the department. The payments shall be considered as a salary or wage expense and shall be paid by the department in the same manner and from the same appropriations as other salary and wage expenses of the department.

(10) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

Sec. 3. RCW 9A.46.110 and 2003 c 53 s 70 are each amended to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and

(b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

(5)(a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another is guilty of a class C felony if any of the following applies: (i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order; (ii) the stalking violates any protective order protecting the person being stalked; (iii) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person; (iv) the stalker was armed with a deadly weapon, as defined in RCW 9.94A.602, while stalking the person; (v) the stalker's victim is or was a law enforcement officer, judge, juror, attorney, victim advocate, legislator, ~~(or)~~ community correction's officer, or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or (vi) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(b) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(c) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(d) "Repeatedly" means on two or more separate occasions.

NEW SECTION. Sec. 4. The department of social and health services shall report to the governor and the appropriate committees of the legislature by December 1, 2006, on the implementation of those recommendations contained in the department's October 2005 report entitled child protective services - staff safety.

NEW SECTION. Sec. 5. Section 4 of this act expires January 1, 2007."

On page 1, line 2 of the title, after "workers;" strike the remainder of the title and insert "amending RCW 9A.46.110; adding a new section to chapter 74.04 RCW; creating new sections; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 3122 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Kagi spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of House Bill No. 3122 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 3122, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Excused: Representative Curtis - 1.

HOUSE BILL NO. 3122, as amended by the Senate having received the constitutional majority, was declared passed.

The Speaker (Representative Lovick presiding) called upon Representative Morris to preside.

MESSAGE FROM THE SENATE

February 28, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2407, with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.94A.713 and 2001 2nd sp.s. c 12 s 304 are each amended to read as follows:

(1) When an offender is sentenced under RCW 9.94A.712, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions of the offender's community custody based upon the risk to community safety. In addition, the department shall make a recommendation with regard to, and the board may require the offender to participate in, rehabilitative programs, or otherwise perform affirmative conduct, and obey all laws. The department may recommend and, if recommended, the board may impose electronic monitoring as a condition of community custody for the offender. Within the resources made available by the department for this purpose, the department shall carry out any monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning technology. The board must consider and may impose department-recommended conditions.

(2) The department may not recommend and the board may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions. The board shall notify the offender in writing of any such conditions or modifications.

(3) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(4) If an offender violates conditions imposed by the court, the department, or the board during community custody, the board or the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.95.435.

(5) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

(a) The crime of conviction;

- (b) The offender's risk of reoffending; or
- (c) The safety of the community.

(6) An offender released by the board under RCW 9.95.420 shall be subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board shall be subject to the provisions of RCW 9.95.425 through 9.95.440.

(7) If the department finds that an emergency exists requiring the immediate imposition of conditions of release in addition to those set by the board under RCW 9.95.420 and subsection (1) of this section in order to prevent the offender from committing a crime, the department may impose additional conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board under subsection (1) of this section within seven working days.

Sec. 2. RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read as follows:

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing alternative program. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws. The department

may impose electronic monitoring as a condition of community custody for an offender sentenced to a term of community custody under this section pursuant to a conviction for a sex offense. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

NEW SECTION. Sec. 3. A new section is added to chapter 4.24 RCW to read as follows:

Local governments, their subdivisions and employees, the department of corrections and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving offenders who are placed on electronic monitoring, unless it is shown that an employee acted with gross negligence or bad faith."

On page 1, line 1 of the title, after "offenders;" strike the remainder of the title and insert "amending RCW 9.94A.713 and 9.94A.715; and adding a new section to chapter 4.24 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2407 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Darneille spoke in favor the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be final passage of Substitute House Bill No. 2407 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2407, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Erickson, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2407, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2465, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.37.010 and 2005 c 213 s 7 are each amended to read as follows:

(1) It is a traffic infraction for any person to drive or move, or for ~~((the))~~ a vehicle owner to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles ~~((which))~~ that:

~~((a))~~ (a) Is in such unsafe condition as to endanger any person ~~((or which does not contain those parts or));~~

~~((b))~~ (b) Is not at all times equipped with such lamps and other equipment in proper working condition and adjustment as required ~~((in))~~ by this chapter or ~~((in regulations))~~ by rules issued by ~~((the chief of))~~ the Washington state patrol ~~((or which is equipped in any manner));~~

~~((c))~~ (c) Contains any parts in violation of this chapter or ~~((the state patrol's regulations, or))~~ rules issued by the Washington state patrol.

(2) It is a traffic infraction for any person to do any act forbidden or fail to perform any act required under this chapter or ~~((the state patrol's regulations))~~ rules issued by the Washington state patrol.

~~((2))~~ (3) Nothing contained in this chapter or the state patrol's regulations shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter or the state patrol's regulations.

~~((3))~~ (4) The provisions of the chapter and the state patrol's regulations with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

~~((4))~~ (5) No owner or operator of a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be guilty of a crime or subject to penalty for violation of RCW 46.37.160 as now or hereafter amended unless such violation occurs on a public highway.

~~((5))~~ (6) It is a traffic infraction for any person to sell or offer for sale vehicle equipment which is required to be approved by the state patrol as prescribed in RCW 46.37.005 unless it has been approved by the state patrol.

~~((6))~~ (7) The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles except as herein made applicable.

~~((7))~~ (8) This chapter does not apply to off-road vehicles used on nonhighway roads.

~~((8))~~ (9) This chapter does not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks.

~~((9))~~ (10) Notices of traffic infraction issued to commercial drivers under the provisions of this chapter with respect to equipment required on commercial motor vehicles shall not be considered for driver improvement purposes under chapter 46.20 RCW.

~~((10))~~ (11) Whenever a traffic infraction is chargeable to the owner or lessee of a vehicle under subsection (1) of this section, the driver shall not be arrested or issued a notice of traffic infraction unless the vehicle is registered in a jurisdiction other than

Washington state, or unless the infraction is for an offense that is clearly within the responsibility of the driver.

~~((H))~~ (12) Whenever the owner or lessee is issued a notice of traffic infraction under this section the court may, on the request of the owner or lessee, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. If the codefendant is held solely responsible and is found to have committed the traffic infraction, the court may dismiss the notice against the owner or lessee.

Sec. 2. RCW 46.37.070 and 1977 ex.s. c 355 s 7 are each amended to read as follows:

(1) After January 1, 1964, every motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps meeting the requirements of RCW 46.37.200, except that passenger cars manufactured or assembled prior to January 1, 1964, shall be equipped with at least one such stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in RCW 46.37.200(1).

(2) After January 1, 1960, every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of RCW 46.37.200(2), except that passenger cars, trailers, semitrailers, pole trailers, and trucks less than eighty inches in width, manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(3) Every passenger car manufactured or assembled after September 1, 1985; and every passenger truck, passenger van, or passenger sports utility vehicle manufactured or assembled after September 1, 1993, must be equipped with a rear center high-mounted stop lamp meeting the requirements of RCW 46.37.200(3).

Sec. 3. RCW 46.37.200 and 1977 ex.s. c 355 s 17 are each amended to read as follows:

(1) Any vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than one hundred feet and on any vehicle manufactured or assembled after January 1, 1964, three hundred feet to the rear in normal sunlight, and which shall be actuated upon application of a service brake, and which may but need not be incorporated with one or more other rear lamps.

(2) Any vehicle may be equipped and when required under RCW 46.37.070(2) shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: PROVIDED, That on any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamp showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.

(3) Any vehicle may be equipped and when required under this chapter shall be equipped with a center high-mounted stop lamp

mounted on the center line of the rear of the vehicle. These stop lamps shall display a red light visible from a distance of not less than three hundred feet to the rear in normal sunlight, and shall be actuated upon application of a service brake, and may not be incorporated with any other rear lamps.

Sec. 4. RCW 46.37.390 and 2001 c 293 s 1 are each amended to read as follows:

(1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle on a highway.

(2)(a) No motor vehicle first sold and registered as a new motor vehicle on or after January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 1 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (a)(i) above.

(b) No motor vehicle first sold and registered prior to January 1, 1971, shall discharge into the atmosphere at elevations of less than three thousand feet any air contaminant for a period of more than ten seconds which is:

(i) As dark as or darker than the shade designated as No. 2 on the Ringelmann chart, as published by the United States bureau of mines; or

(ii) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subsection (b)(i) above.

(c) For the purposes of this subsection the following definitions shall apply:

(i) "Opacity" means the degree to which an emission reduces the transmission of light and obscures the view of an object in the background;

(ii) "Ringelmann chart" means the Ringelmann smoke chart with instructions for use as published by the United States bureau of mines in May 1967 and as thereafter amended, information circular 7718.

(3) No person shall modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the engine of such vehicle above that emitted by the muffler originally installed on the vehicle, and it shall be unlawful for any person to operate a motor vehicle not equipped as required by this subsection, or which has been amplified as prohibited by this subsection (~~so that the vehicle's exhaust noise exceeds ninety-five decibels as measured by the Society of Automotive Engineers (SAE) test procedure J1169 (May, 1998). It is not a violation of this subsection unless proven by proper authorities that the exhaust system modification results in noise amplification in excess of ninety-five decibels under the prescribed SAE test standard~~). A court may dismiss an infraction notice for a violation of this subsection if there is reasonable grounds to believe that the vehicle was not operated in violation of this subsection.

This subsection (3) does not apply to vehicles twenty-five or more years old or to passenger vehicles being operated off the highways in an organized racing or competitive event conducted by a recognized sanctioning body."

On page 1, line 2 of the title, after "installed;" strike the remainder of the title and insert "and amending RCW 46.37.010, 46.37.070, 46.37.200, and 46.37.390."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2465 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

The Speaker (Representative Morris presiding) stated the question before the House to be final passage of House Bill No. 2465 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2465, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

HOUSE BILL NO. 2465, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 28B.85 RCW to read as follows:

- (1) It is unlawful for a person to:
 - (a) Grant or award a false academic credential or offer to grant or award a false academic credential in violation of this section;
 - (b) Represent that a credit earned or granted by the person, in violation of this section, can be applied toward a credential offered by another person; or
 - (c) Solicit another person to seek a credential or to earn a credit that is offered in violation of this section.
- (2) The definitions in section 2 of this act apply to this section.
- (3) A violation of this section constitutes an unfair or deceptive act or practice in the conduct of trade or commerce under chapter 19.86 RCW.
- (4) In addition to any other venue authorized by law, venue for the prosecution of an offense under this section is in the county in which an element of the offense occurs.

NEW SECTION. Sec. 2. A new section is added to chapter 9A.60 RCW to read as follows:

- (1) A person is guilty of issuing a false academic credential if the person knowingly:
 - (a) Grants or awards a false academic credential or offers to grant or award a false academic credential in violation of this section;
 - (b) Represents that a credit earned or granted by the person in violation of this section can be applied toward a credential offered by another person;
 - (c) Grants or offers to grant a credit for which a representation as described in (b) of this subsection is made; or
 - (d) Solicits another person to seek a credential or to earn a credit the person knows is offered in violation of this section.
- (2) A person is guilty of knowingly using a false academic credential if the person knowingly uses a false academic credential or falsely claims to have a credential issued by an institution of higher education that is accredited by an accrediting association recognized as such by rule of the higher education coordinating board:
 - (a) In a written or oral advertisement or other promotion of a business; or
 - (b) With the intent to:
 - (i) Obtain employment;
 - (ii) Obtain a license or certificate to practice a trade, profession, or occupation;
 - (iii) Obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;
 - (iv) Obtain admission to an educational program in this state; or
 - (v) Gain a position in government with authority over another person, regardless of whether the person receives compensation for the position.
- (3) The definitions in this subsection apply throughout this section and section 1 of this act.
- (4) "False academic credential" means a document that provides evidence or demonstrates completion of an academic or professional course of instruction beyond the secondary level that results in the attainment of an academic certificate, degree, or rank, and that is not issued by a person or entity that:
 - (i) Is an entity accredited by an agency recognized as such by rule of the higher education coordinating board or has the international equivalents of such accreditation; or
 - (ii) is an entity authorized as a degree-granting institution by the higher education coordinating board; or
 - (iii) is an entity exempt from the requirements of authorization as a degree-granting institution by the higher education coordinating board; or

(iv) is an entity that has been granted a waiver by the higher education coordinating board from the requirements of authorization by the board. Such documents include, but are not limited to, academic certificates, degrees, coursework, degree credits, transcripts, or certification of completion of a degree.

(b) "Grant" means award, bestow, confer, convey, sell, or give.

(c) "Offer," in addition to its usual meanings, means advertise, publicize, or solicit.

(d) "Operate" includes but is not limited to the following:

(i) Offering courses in person, by correspondence, or by electronic media at or to any Washington location for degree credit;

(ii) Granting or offering to grant degrees in Washington;

(iii) Maintaining or advertising a Washington location, mailing address, computer server, or telephone number, for any purpose, other than for contact with the institution's former students for any legitimate purpose related to the students having attended the institution.

(4) Issuing a false academic credential is a class C felony.

(5) Knowingly using a false academic credential is a class C felony.

Sec. 3. RCW 28B.85.020 and 2005 c 274 s 246 are each amended to read as follows:

(1) The board:

(a) Shall adopt by rule, in accordance with chapter 34.05 RCW, minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The rules ~~((may))~~ shall require that an institution operating in Washington:

(i) Be accredited ((or be making progress toward accreditation by an accrediting agency recognized by the United States department of education. The board shall adopt the rules in accordance with chapter 34.05 RCW));

(ii) Have applied for accreditation and such application is pending before the accrediting agency;

(iii) Have been granted a waiver by the board waiving the requirement of accreditation; or

(iv) Have been granted an exemption by the board from the requirements of this subsection (1)(a);

(b) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections, the cost of which shall be borne by the institution, and examine records of all institutions subject to this chapter;

(c) Shall develop an interagency agreement with the work force training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs; and

(d) Shall develop and disseminate information to the public about entities that sell or award degrees without requiring appropriate academic achievement at the postsecondary level, including but not limited to, a description of the substandard and potentially fraudulent practices of these entities, and advice about how the public can recognize and avoid the entities. To the extent feasible, the information shall include links to additional resources that may assist

the public in identifying specific institutions offering substandard or fraudulent degree programs.

(2) Financial disclosures provided to the board by degree-granting private vocational schools are not subject to public disclosure under chapter 42.56 RCW.

Sec. 4. RCW 28B.85.040 and 2004 c 96 s 2 are each amended to read as follows:

(1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) No exemption or waiver granted under this chapter is permanent. The board shall periodically review exempted degree-granting institutions and degree-granting institutions granted a waiver, and continue exemptions or waivers only if an institution meets the statutory or board requirements for exemption or waiver in effect on the date of the review.

(3) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, community college, technical college, or institute operating as part of the public higher educational system of this state;

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter: PROVIDED, That those institutions meet minimum exemption standards adopted by the agency; and PROVIDED FURTHER, That an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of any such accrediting association to qualify for this exemption;

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications;

(d) Honorary credentials clearly designated as such on the front side of the diploma or certificate awarded by institutions offering other educational credentials in compliance with state law; or

(e) Institutions not otherwise exempt which offer only workshops or seminars and institutions offering only credit-bearing workshops or seminars lasting no longer than three calendar days.

NEW SECTION. Sec. 5. A new section is added to chapter 28A.405 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.50 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 41.06 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act."

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28B.85.020 and 28B.85.040; adding a new section to chapter 28B.85 RCW; adding a new section to chapter 9A.60 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 41.06 RCW; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 3115, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that:

(1) Foster parents are able to successfully maintain placements of sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors when they are provided with proper training and support. Lack of support contributes to placement disruptions and multiple moves between foster homes.

(2) Young children who have experienced repeated early abuse and trauma are at high risk for behavior later in life that is sexually deviant, if left untreated. Placement with a well-trained, prepared, and supported foster family can break this cycle.

(3) The department is better able to recruit and retain foster parents by acknowledging that foster parents who serve sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors may be more susceptible to allegations of abuse arising out of a foster child's conduct. Fair investigations of the allegations, protection from disclosure of unfounded allegations, and appropriate maintenance of all department records are necessary to protect foster parents and other similarly situated individuals.

NEW SECTION. Sec. 2. A foster parent critical support and retention program is established to retain foster parents who care for sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. Services shall be coordinated with the children's administration social worker. The foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant

behavioral issues that pose a threat to others or themselves or the stability of the placement.

NEW SECTION. Sec. 3. Under the foster parent critical support and retention program, foster parents who care for sexually aggressive youth, physically assaultive children, or children with other high-risk behaviors shall receive:

(1) Availability at any time of the day or night to address specific concerns related to the identified child;

(2) Assessment of risk and development of a safety and supervision plan;

(3) Home-based foster parent training utilizing evidence-based models;

(4) Referral to relevant community services and training provided by the local children's administration office or community agencies. Referral to additional services shall be coordinated with the assigned social worker; and

(5) Any relevant health care information. Disclosure of any relevant health care information shall be consistent with RCW 70.24.105 and any guidelines or recommendations established by the department of health concerning disclosure of such information, including testing for and disclosure of information related to blood-borne pathogens.

Sec. 4. RCW 26.44.020 and 2005 c 512 s 5 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age.

(7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(13) "Child protective services section" means the child protective services section of the department.

(14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child (~~do~~ ~~does~~) does not constitute negligent treatment or maltreatment in and of ~~themselves~~ ~~itself~~) itself.

(16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(19) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(20) "Unfounded" means (~~available information indicates~~) a finding at the completion of an investigation by the department or a

judicial finding that, more likely than not, child abuse or neglect did not occur. (~~No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.~~)

(21) "Inconclusive" means a finding at the completion of an investigation by the department that there is insufficient evidence to conclude that the alleged child abuse or neglect occurred.

(22) "Founded" means a finding at the completion of an investigation by the department or a judicial finding that, more likely than not, the alleged child abuse or neglect occurred.

Sec. 5. RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them,

has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such

planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report((s)) of alleged abuse or neglect, the department shall:

(a) Make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(i) The department believes there is a serious threat of substantial harm to the child;

(ii) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(iii) The department has a prior founded report of abuse or neglect that is within three years of receipt of the referral;

(b) Unless the report is screened-out or being investigated by a law enforcement agency, conduct an investigation within time frames established by the department in rule; and

(c) Make a finding that the report of child abuse or neglect is unfounded, founded, or inconclusive at the completion of the investigation.

(11) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation((-

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency); and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases ~~((constituting))~~ of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(13) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(14) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((15) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.))~~

Sec. 6. RCW 26.44.031 and 1997 c 282 s 1 are each amended to read as follows:

(1) To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not disclose or maintain information related to ((unfounded referrals in files or)) reports of child abuse or neglect ((for longer than six years)) except as provided in this section.

~~((At the end of six years from receipt of the unfounded report, the information shall be purged unless an additional report has been received in the intervening period.))~~

(2) The department shall destroy all of the electronic records concerning:

(a) A screened-out report, within thirty days from the receipt of the report;

(b) An unfounded report, within one year of completion of the investigation; and

(c) An inconclusive report, within six years of completion of the investigation, unless a prior or subsequent founded report has been received before the records are destroyed.

(3) The department may keep records concerning founded reports of child abuse or neglect as the department determines by rule.

(4) An unfounded or screened-out report may not be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

(5)(a) If the department fails to comply with this section, an individual who is the subject of a report may institute proceedings for injunctive or other appropriate relief for enforcement of the requirement to purge information. These proceedings may be instituted in the superior court for the county in which the person

resides or, if the person is not then a resident of this state, in the superior court for Thurston county.

(b) If the department fails to comply with subsection (4) of this section and an individual who is the subject of the report is harmed by the disclosure of information, in addition to the relief provided in (a) of this subsection, the court may award a penalty of up to one thousand dollars and reasonable attorneys' fees and court costs to the petitioner.

(c) A proceeding under this subsection does not preclude other methods of enforcement provided for by law.

(6) The department shall establish, by rule, a process and standards for an individual who is the subject of an inconclusive report of child abuse or neglect to request destruction of department records earlier than the time frames set out in this section.

(7) Nothing in this section shall prevent the department from retaining general, nonidentifying information which is required for state and federal reporting and management purposes.

Sec. 7. RCW 74.13.280 and 2001 c 318 s 3 are each amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency shall share information about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information about behavioral and emotional problems of the child and whether the child is a sexually aggressive youth as provided in RCW 74.13.075.

(3) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.

~~((3))~~ (4) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.

NEW SECTION. Sec. 8. A new section is added to chapter 74.13 RCW to read as follows:

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise wherein:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, the child has behavioral or emotional problems that were known to the department, and the problems were not disclosed to the care provider as required by RCW 74.13.280;

(b) The allegations arise from the child's conduct, the child is a sexually aggressive youth as defined in RCW 74.13.075, and the care provider had no prior knowledge that the child was sexually aggressive; or

(c) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation.

(2) Allegations of child abuse or neglect against a care provider that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

Sec. 9. RCW 74.15.130 and 2005 c 473 s 6 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded or screened-out report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed seventy-five dollars per violation for a family day-care home and two hundred fifty dollars per violation for group homes, child day-care centers, and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance

of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

(5)(a) In addition to or in lieu of an enforcement action being taken, the department may place a child day-care center or family day-care provider on nonreferral status if the center or provider has failed or refused to comply with this chapter or rules adopted under this chapter or an enforcement action has been taken. The nonreferral status may continue until the department determines that: (i) No enforcement action is appropriate; or (ii) a corrective action plan has been successfully concluded.

(b) Whenever a child day-care center or family day-care provider is placed on nonreferral status, the department shall provide written notification to the child day-care center or family day-care provider.

(6) The department shall notify appropriate public and private child care resource and referral agencies of the department's decision to: (a) Take an enforcement action against a child day-care center or family day-care provider; or (b) place or remove a child day-care center or family day-care provider on nonreferral status.

NEW SECTION. Sec. 10. The code reviser shall alphabetize the definitions in RCW 26.44.020 and correct any references.

NEW SECTION. Sec. 11. Sections 4 through 6, 9, and 10 of this act take effect July 1, 2007. The department of social and health services shall present a report to the appropriate committees of the legislature by January 1, 2007, with proposed legislative changes, if any, to those sections."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 26.44.020, 26.44.030, 26.44.031, 74.13.280, and 74.15.130; adding a new section to chapter 74.13 RCW; creating new sections; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 3115 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

March 2, 2006

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the intent of the legislature to ensure an adequate supply of safe, clean, and reliable electricity at the lowest reasonable cost and risk to the utility and its ratepayers. To achieve this end, the legislature finds it essential that electric utilities in Washington develop comprehensive resource plans that explain the mix of generation and demand-side resources they plan to use to meet

their customers' electricity needs in both the short term and the long term. The legislature also finds that resource planning is an important way of maintaining Washington state's commitment to a vertically integrated utility structure. The legislature further finds that many utilities in Washington have had a long and successful history of resource planning and are able to share their expertise with other utilities. The legislature also finds it essential that the utility plans be made publicly available and be aggregated and analyzed at a statewide level so the citizens of the state and their public officials have confidence that Washington's electricity supply is adequate.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the utilities and transportation commission.

(2) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Department" means the department of community, trade, and economic development.

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in section 3(1) of this act.

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in section 3(2) of this act.

NEW SECTION. Sec. 3. Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of a commercially available, utility scale renewable and nonrenewable generating technologies;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost and risk to the utility and its ratepayers; and

(f) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not renewable resources or conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish a final integrated resource plan either as part of an annual report or as a separate document available to the public.

NEW SECTION. Sec. 4. (1) Investor-owned utilities shall submit integrated resource plans to the commission. The commission shall establish by rule the requirements for preparation and submission of integrated resource plans.

(2) The commission may adopt additional rules as necessary to clarify the requirements of section 3 of this act as they apply to investor-owned utilities.

NEW SECTION. Sec. 5. (1) The governing body of a consumer-owned utility that develops a plan under this chapter shall encourage participation of its consumers in development of the plans and progress reports and approve the plans and progress reports after it has provided public notice and hearing.

(2) Each consumer-owned utility shall transmit a copy of its plan to the department by September 1, 2008, and transmit subsequent progress reports or plans to the department at least every two years thereafter. The department shall develop, in consultation with utilities, a common cover sheet that summarizes the essential data in their plans or progress reports.

(3) Consumer-owned utilities may develop plans of a similar type jointly with other consumer-owned utilities. Data and assessments included in joint reports must be identifiable to each individual utility.

(4) To minimize duplication of effort and maximize efficient use of utility resources, in developing their plans under section 3 of this act, consumer-owned utilities are encouraged to use resource planning concepts, techniques, and information provided to and by organizations such as the United States department of energy, the Northwest planning and conservation council, Pacific Northwest utility conference committee, and other state, regional, national, and international entities, and, for the 2008 plan, as appropriate, are encouraged to use and be consistent with relevant determinations required under Title XII - Electricity; Subtitle E, Sections 1251 - 1254 of the federal energy policy act of 2005.

NEW SECTION. Sec. 6. The department shall review the plans of consumer-owned utilities and investor-owned utilities, and data available from other state, regional, and national sources, and prepare a report to the legislature aggregating the data and assessing the overall adequacy of Washington's electricity supply. The report shall include a statewide summary of utility load forecasts, load/resource balance, and utility plans for the development of thermal generation, renewable resources, and conservation and efficiency resources. The commission shall provide the department with data summarizing the plans of investor-owned utilities for use in the department's statewide summary. The department shall submit its report within the biennial report required under RCW 43.21F.045.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act constitute a new chapter in Title 19 RCW."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "electric utility planning; and adding a new chapter to Title 19 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House refused to recede from its position on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010 and asked the Senate for a conference thereon.

APPOINTMENT OF CONFEREES

The Speaker (Representative Morris presiding) appointed Representatives Morris, Hudgins and Crouse as conferees on ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1439, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.19.1906 and 2002 c 332 s 4 are each amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed, electronic, or web-based bid procedure, subject to RCW 43.19.1911, shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic, or web-based competitive bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or

both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management division under RCW 43.41.310;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes; and

(9) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

Sec. 2. RCW 43.19.1908 and 1994 c 300 s 2 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in ~~((writing))~~ written or electronic form and conform to rules of the division of purchasing.

Sec. 3. RCW 43.19.1911 and 2005 c 204 s 5 are each amended to read as follows:

(1) Preservation of the integrity of the competitive bid system dictates that after competitive bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid pursuant to subsections (7) and (9) of this section, unless there is a compelling reason to reject all bids and cancel the solicitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the purchasing agency, division, or department head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the purchasing agency, division, or department head determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency, division, or department head may not delegate his or her authority under this section.

(6) After the opening of bids, an agency may not reject all bids and enter into direct negotiations to complete the planned acquisition. However, the agency can enter into negotiations exclusively with the lowest responsible bidder in order to determine if the lowest responsible bid may be improved. Until December 31, 2009, for purchases requiring a formal bid process the agency shall also enter into negotiations with and may consider for award the lowest responsible bidder that is a vendor in good standing, as defined in RCW 43.19.525. An agency shall not use this negotiation opportunity to permit a bidder to change a nonresponsive bid into a responsive bid.

(7) In determining the lowest responsible bidder, the agency shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.704, and further, may take into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

(8) Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. Bid prices shall not be disclosed during electronic or web-based bidding before the letting of the contract.

(9) In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(a) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(b) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(c) Whether the bidder can perform the contract within the time specified;

(d) The quality of performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws relating to the contract or services;

(f) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

NEW SECTION. Sec. 4. A new section is added to chapter 39.04 RCW to read as follows:

(1) Any state agency, city with a population greater than one hundred thousand, or counties with a population greater than five hundred thousand executing public works using a competitive

bidding process cannot reject all bids after opening unless there is a compelling reason.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or agency head or the appropriate city or county contract authority, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a bid solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the state, city, or county determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency, city, or county;

(e) Bids received indicate that the needs of the state, city, or county can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency, city, or county cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The state agency head or city or county contract authority may not delegate his or her authority under this section.

NEW SECTION. Sec. 5. A new section is added to chapter 39.29 RCW to read as follows:

(1) Any agency or institution of state government procuring personal services using a competitive solicitation process cannot reject all solicitations after opening unless there is a compelling reason.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or agency head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the agency determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the agency;

(e) Bids received indicate that the needs of the agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency head may not delegate his or her authority under this section.

NEW SECTION. Sec. 6. A new section is added to chapter 43.105 RCW to read as follows:

(1) The board, or other agencies and institutions of state government the board delegates authority to, when purchasing, leasing, renting, or otherwise acquiring, disposing of, or maintaining equipment, proprietary software, or purchased services using a competitive bidding process cannot reject all bids and cancel the solicitation after the bid opening unless there is a compelling reason.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to provide reasonable notice to all prospective bidders of any resulting modification or cancellation. If, in the opinion of the director or purchasing agency head, it is not possible to provide reasonable notice, the published date for receipt of bids may be postponed and all known bidders notified. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices. In addition, every effort shall be made to include realistic, achievable requirements in a solicitation.

(3) After the opening of bids, a solicitation may not be canceled and resolicited solely because of an increase in requirements for the items being acquired. Award may be made on the initial solicitation and an increase in requirements may be treated as a new acquisition.

(4) A solicitation may be canceled and all bids rejected before award but after bid opening only when, consistent with subsection (1) of this section, the board or purchasing agency, determines in writing that:

(a) Unavailable, inadequate, ambiguous specifications, terms, conditions, or requirements were cited in the solicitation;

(b) Specifications, terms, conditions, or requirements have been revised;

(c) The supplies or services being contracted for are no longer required;

(d) The solicitation did not provide for consideration of all factors of cost to the board or agency;

(e) Bids received indicate that the needs of the board or agency can be satisfied by a less expensive article differing from that for which the bids were invited;

(f) All otherwise acceptable bids received are at unreasonable prices or only one bid is received and the board or agency cannot determine the reasonableness of the bid price;

(g) No responsive bid has been received from a responsible bidder; or

(h) The bid process was not fair or equitable.

(5) The agency head may not delegate his or her authority under this section."

On page 1, line 1 of the title, after "bidding;" strike the remainder of the title and insert "amending RCW 43.19.1906, 43.19.1908, and 43.19.1911; adding a new section to chapter 39.04 RCW; adding a new section to chapter 39.29 RCW; and adding a new section to chapter 43.105 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1439 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Green and Nixon spoke in favor the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be final passage of House Bill No. 1439 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1439, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

HOUSE BILL NO. 1439, as amended by the Senate having received the constitutional majority, was declared passed.

The Speaker (Representative Morris presiding) called upon Representative Lovick to preside.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2345, with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 52.26.020 and 2004 c 129 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the governing body of a regional fire protection service authority.

(2) "Regional fire protection service authority" or "authority" means a municipal corporation, an independent taxing authority within the meaning of Article VII, section 1 of the state Constitution, and a taxing district within the meaning of Article VII, section 2 of the state Constitution, whose boundaries are coextensive with two or more adjacent fire protection jurisdictions and that has been created by a vote of the people under this chapter to implement a regional fire protection service authority plan.

(3) "Regional fire protection service authority planning committee" or "planning committee" means the advisory committee created under RCW 52.26.030 to create and propose to fire protection jurisdictions a regional fire protection service authority plan to design, finance, and develop fire protection and emergency service projects.

(4) "Regional fire protection service authority plan" or "plan" means a plan to develop and finance a fire protection service authority project or projects, including, but not limited to, specific capital projects, fire operations and emergency service operations pursuant to RCW 52.26.040(3)(b), and preservation and maintenance of existing or future facilities.

(5) "Fire protection jurisdiction" means a fire district, city, town, port district, or Indian tribe.

(6) "Regular property taxes" has the same meaning as in RCW 84.04.140.

Sec. 2. RCW 52.26.040 and 2004 c 129 s 4 are each amended to read as follows:

(1) A regional fire protection service authority planning committee shall adopt a regional fire protection service authority plan providing for the design, financing, and development of fire protection and emergency services. The planning committee may consider the following factors in formulating its plan:

(a) Land use planning criteria; and

(b) The input of cities and counties located within, or partially within, a participating fire protection jurisdiction.

(2) The planning committee may coordinate its activities with neighboring cities, towns, and other local governments that engage in fire protection planning.

(3) The planning committee shall:

(a) Create opportunities for public input in the development of the plan;

(b) Adopt a plan proposing the creation of a regional fire protection service authority and recommending design, financing, and development of fire protection and emergency service facilities and operations, including maintenance and preservation of facilities or systems ~~(; except that no ambulance service may be recommended unless the regional fire protection service authority determines that the fire protection jurisdictions that are members of the authority are not adequately served by existing private ambulance service in which case the authority may provide for the establishment of a system of~~

~~ambulance service to be operated by the authority or operated by contract after a call for bids)). The plan may authorize the authority to establish a system of ambulance service to be operated by the authority or operated by contract after a call for bids. However, the authority shall not provide for the establishment of an ambulance service that would compete with any existing private ambulance service, unless the authority determines that the region served by the authority, or a substantial portion of the region served by the authority, is not adequately served by an existing private ambulance service. In determining the adequacy of an existing private ambulance service, the authority shall take into consideration objective generally accepted medical standards and reasonable levels of service which must be published by the authority. Following the preliminary conclusion by the authority that the existing private ambulance service is inadequate, and before establishing an ambulance service or issuing a call for bids, the authority shall allow a minimum of sixty days for the private ambulance service to meet the generally accepted medical standards and accepted levels of service. In the event of a second preliminary conclusion of inadequacy within a twenty-four-month period, the authority may immediately issue a call for bids or establish its own ambulance service and is not required to afford the private ambulance service another sixty-day period to meet the generally accepted medical standards and reasonable levels of service. A private ambulance service that is not licensed by the department of health or whose license is denied, suspended, or revoked is not entitled to a sixty-day period within which to demonstrate adequacy and the authority may immediately issue a call for bids or establish an ambulance service;~~
and

(c) In the plan, recommend sources of revenue authorized by RCW 52.26.050, identify the portions of the plan that may be amended by the board of the authority without voter approval, consistent with RCW 52.26.050, and recommend a financing plan to fund selected fire protection ((service)) and emergency services and projects.

(4) Once adopted, the plan must be forwarded to the participating fire protection jurisdictions' governing bodies to initiate the election process under RCW 52.26.060.

(5) If the ballot measure is not approved, the planning committee may redefine the selected regional fire protection service authority projects, financing plan, and the ballot measure. The fire protection jurisdictions' governing bodies may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at a subsequent election or a special election. If a ballot measure is not approved by the voters by the third vote, the planning committee is dissolved.

Sec. 3. RCW 52.26.050 and 2004 c 129 s 5 are each amended to read as follows:

(1) A regional fire protection service authority planning committee may, as part of a regional fire protection service authority plan, recommend the imposition of some or all of the following revenue sources, which a regional fire protection service authority may impose upon approval of the voters as provided in this chapter:

(a) Benefit charges under RCW 52.26.180 through 52.26.270;

(b) Property taxes under RCW 52.26.140 through 52.26.170 and 84.52.044 and RCW 84.09.030, 84.52.010, 84.52.052, and 84.52.069; or

(c) Both (a) and (b) of this subsection.

(2) The authority may impose taxes and benefit charges ((may not be imposed unless they are identified)) as set forth in the regional fire protection service authority plan ((and the plan is)) upon creation

of the authority, or as provided for in this chapter after creation of the authority. If the plan authorizes the authority to impose benefit charges or sixty percent voter approved taxes, the plan and creation of the authority must be approved by an affirmative vote of sixty percent of the voters within the boundaries of the authority voting on a ballot proposition as set forth in RCW 52.26.060. However, if the plan provides for alternative sources of revenue that become effective if the plan and creation of the authority is approved only by a majority vote, then the plan with alternative sources of revenue and creation of the authority may be approved by an affirmative vote of the majority of those voters. If the plan does not authorize the authority to impose benefit charges or sixty percent voter approved taxes, the plan and creation of the authority must be approved by an affirmative vote of the majority of the voters within the boundaries of the authority voting on a ballot proposition as set forth in RCW 52.26.060. ((The voter approval requirement)) Except as provided in this section ((is in addition to any)), all other voter approval requirements under law for the levying of property taxes or the imposition of benefit charges apply. Revenues from these taxes and benefit charges may be used only to implement the plan as set forth in this chapter.

Sec. 4. RCW 52.26.060 and 2004 c 129 s 6 are each amended to read as follows:

The governing bodies of two or more adjacent fire protection jurisdictions, upon receipt of the regional fire protection service authority plan under RCW 52.26.040, may certify the plan to the ballot, including identification of the ((tax)) revenue options ((necessary)) specified to fund the plan. The governing bodies of the fire protection jurisdictions may draft a ballot title, give notice as required by law for ballot measures, and perform other duties as required to put the plan before the voters of the proposed authority for their approval or rejection as a single ballot measure that both approves formation of the authority and approves the plan. Authorities may negotiate interlocal agreements necessary to implement the plan. The electorate is the voters voting within the boundaries of the proposed regional fire protection service authority. A simple majority of the total persons voting on the single ballot measure to approve the plan((-)) and establish the authority((- and approve the taxes)) is required for approval. However, if the plan authorizes the authority to impose benefit charges or sixty percent voter approved taxes, then the percentage of total persons voting on the single ballot measure to approve the plan and establish the authority is the same as in RCW 52.26.050. The authority must act in accordance with the general election laws of the state. The authority is liable for its proportionate share of the costs when the elections are held under RCW ((29A.04.320)) 29A.04.321 and 29A.04.330.

Sec. 5. RCW 52.26.070 and 2004 c 129 s 7 are each amended to read as follows:

If the voters approve the plan, including creation of a regional fire protection service authority and imposition of taxes and benefit charges, if any, the authority is formed on the next January 1st or July 1st, whichever occurs first. The appropriate county election officials shall, within fifteen days of the final certification of the election results, publish a notice in a newspaper or newspapers of general circulation in the authority declaring the authority formed. A party challenging the procedure or the formation of a voter-approved authority must file the challenge in writing by serving the prosecuting attorney of each county within, or partially within, the regional fire protection service authority and the attorney general within thirty

days after the final certification of the election. Failure to challenge within that time forever bars further challenge of the authority's valid formation.

Sec. 6. RCW 52.26.090 and 2004 c 129 s 9 are each amended to read as follows:

(1) The governing board of the authority is responsible for the execution of the voter-approved plan. Participating jurisdictions shall review the plan every ten years. The board ((shall)) may:

(a) Levy ((and impose)) taxes and impose benefit charges as authorized in the plan and approved by authority voters;

(b) Enter into agreements with federal, state, local, and regional entities and departments as necessary to accomplish authority purposes and protect the authority's investments;

(c) Accept gifts, grants, or other contributions of funds that will support the purposes and programs of the authority;

(d) Monitor and audit the progress and execution of fire protection and emergency service projects to protect the investment of the public and annually make public its findings;

(e) Pay for services and enter into leases and contracts, including professional service contracts;

(f) Hire, manage, and terminate employees; and

(g) Exercise ((other)) powers and perform duties as ((may be reasonable)) the board determines necessary to carry out the purposes, functions, and projects of the authority in accordance with Title 52 RCW if one of the fire protection jurisdictions is a fire district, unless provided otherwise in the regional fire protection service authority plan, or in accordance with the statutes identified in the plan if none of the fire protection jurisdictions is a fire district.

(2) ((An authority may acquire, hold, or dispose of real property.

— (3) An authority may exercise the powers of eminent domain.

— (4)) An authority may enforce fire codes as provided under chapter 19.27 RCW.

Sec. 7. RCW 52.26.100 and 2004 c 129 s 10 are each amended to read as follows:

(1) Except as otherwise provided in the regional fire protection service authority plan, all powers, duties, and functions of a participating fire protection jurisdiction pertaining to ((providing)) fire protection and emergency services ((may)) shall be transferred((- by resolution,)) to the regional fire protection service authority on its creation date.

(2)(a) Except as otherwise provided in the regional fire protection service authority plan, and on the creation date of the regional fire protection service authority, all reports, documents, surveys, books, records, files, papers, or written material in the possession of the participating fire protection jurisdiction pertaining to ((the)) fire protection and emergency services powers, functions, and duties ((transferred)) shall be delivered to the ((custody of the)) regional fire protection service authority((-); all real property and personal property including cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the participating fire protection jurisdiction in carrying out the fire protection and emergency services powers, functions, and duties ((transferred)) shall be ((made available)) transferred to the regional fire protection service authority((-); and all funds, credits, or other assets held by the participating fire protection jurisdiction in connection with the fire protection and emergency services powers, functions, and duties ((transferred)) shall be ((assigned)) transferred and credited to the regional fire protection service authority.

(b) Except as otherwise provided in the regional fire protection service authority plan, any appropriations made to the participating

fire protection jurisdiction for carrying out the fire protection and emergency services powers, functions, and duties ~~((transferred))~~ shall ~~((on the effective date of the resolution,))~~ be transferred and credited to the regional fire protection service authority.

(c) Except as otherwise provided in the regional fire protection service authority plan, whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the governing body of the participating fire protection jurisdiction shall make a determination as to the proper allocation.

(3) Except as otherwise provided in the regional fire protection service authority plan, all rules and all pending business before the participating fire protection jurisdiction pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the regional fire protection service authority~~((:))~~, and all existing contracts and obligations shall remain in full force and shall be performed by the regional fire protection service authority.

(4) The transfer of the powers, duties, functions, and personnel of the participating fire protection jurisdiction shall not affect the validity of any act performed before ~~((the effective date of the resolution))~~ creation of the regional fire protection service authority.

(5) If apportionments of budgeted funds are required because of the transfers ~~((directed by the resolution))~~, the treasurer ~~((under RCW 52.26.170))~~ for the authority shall certify the apportionments.

(6)(a) Subject to (c) of this subsection, all employees of the participating fire protection jurisdictions are transferred to the jurisdiction of the regional fire protection service authority on its creation date. Upon transfer, unless an agreement for different terms of transfer is reached between the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions, an employee is entitled to the employee rights, benefits, and privileges to which he or she would have been entitled as an employee of a participating fire protection jurisdiction, including rights to:

(i) Compensation at least equal to the level at the time of transfer;

(ii) Retirement, vacation, sick leave, and any other accrued benefit;

(iii) Promotion and service time accrual; and

(iv) The length or terms of probationary periods, including no requirement for an additional probationary period if one had been completed before the transfer date.

(b) If any or all of the participating fire protection jurisdictions provide for civil service in their fire departments, the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions must negotiate regarding the establishment of a civil service system within the authority. This subsection does not apply if none of the participating fire protection districts provide for civil service.

(c) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified as provided by law. ((RCW 35.13.215 through 35.13.235 apply to the transfer of employees under this section.))

NEW SECTION. Sec. 8. A new section is added to chapter 52.26 RCW to read as follows:

(1) Subject to subsection (2) of this section, a regional fire protection service authority may, by resolution of its board, provide for civil service for its employees in the same manner, with the same

powers, and with the same force and effect as provided by chapter 41.08 RCW for cities, towns, and municipalities, including restrictions against the discharge of an employee because of residence outside the limits of the regional fire protection service authority.

(2) If an agreement is reached to provide for civil service under RCW 52.26.100(6), the regional fire protection service authority shall establish such a system as is required by the agreement.

NEW SECTION. Sec. 9. A new section is added to chapter 52.26 RCW to read as follows:

Territory that is annexed to a participating jurisdiction is annexed to the authority as of the effective date of the annexation. The statutes regarding transfer of assets and employees do not apply to the participating jurisdictions in the annexation.

Sec. 10. RCW 52.26.130 and 2004 c 129 s 14 are each amended to read as follows:

~~((Unless contrary to this section, chapter 39.42 RCW applies to debt and bonding under this section. The authority may borrow money, but may not issue any debt of its own for more than ten years' duration. An authority may issue notes or other evidences of indebtedness with a maturity of not more than twenty years. An authority may, when authorized by the plan, enter into agreements with the state to pledge taxes or other revenues of the authority for the purpose of paying in part or whole principal and interest on bonds issued by the authority. The contracts pledging revenues and taxes are binding for the term of the agreement, but not to exceed twenty-five years, and no tax pledged by an agreement may be eliminated or modified if it would impair the pledge of the agreement.)) (1) An authority may incur general indebtedness for authority purposes, issue bonds, notes, or other evidences of indebtedness not to exceed an amount, together with any outstanding nonvoter approved general obligation debt, equal to three-fourths of one percent of the value of the taxable property within the authority. The maximum term of the obligations may not exceed twenty years. The obligations may pledge benefit charges and may pledge payments to an authority from the state, the federal government, or any fire protection jurisdiction under an interlocal contract. The interlocal contracts pledging revenues and taxes are binding for a term not to exceed twenty-five years, and taxes or other revenue pledged by an interlocal contract may not be eliminated or modified if it would impair the pledge of the contract.~~

(2) An authority may also issue general obligation bonds for capital purposes not to exceed an amount, together with any outstanding general obligation debt, equal to one and one-half percent of the value of the taxable property within the authority. The authority may provide for the retirement of the bonds by excess property tax levies. The voters of the authority must approve a proposition authorizing the bonds and levies by an affirmative vote of three-fifths of those voting on the proposition at an election. At the election, the total number of persons voting must constitute not less than forty percent of the voters in the authority who voted at the last preceding general state election. The maximum term of the bonds may not exceed twenty-five years. Elections shall be held as provided in RCW 39.36.050.

(3) Obligations of an authority shall be issued and sold in accordance with chapters 39.46 and 39.50 RCW, as applicable.

Sec. 11. RCW 52.26.140 and 2004 c 129 s 15 are each amended to read as follows:

(1) To carry out the purposes for which a regional fire protection service authority is created, as authorized in the plan and approved

by the voters, the governing board of an authority may annually levy the following taxes:

(a) An ad valorem tax on all taxable property located within the authority not to exceed fifty cents per thousand dollars of assessed value;

(b) An ad valorem tax on all property located within the authority not to exceed fifty cents per thousand dollars of assessed value and which will not cause the combined levies to exceed the constitutional or statutory limitations. This levy, or any portion of this levy, may also be made when dollar rates of other taxing units are released by agreement with the other taxing units from their authorized levies; and

(c) An ad valorem tax on all taxable property located within the authority not to exceed fifty cents per thousand dollars of assessed value if the authority has at least one full-time, paid employee, or contracts with another municipal corporation for the services of at least one full-time, paid employee. This levy may be made only if it will not affect dollar rates which other taxing districts may lawfully claim nor cause the combined levies to exceed the constitutional or statutory limitations or both.

(2) Levies in excess of the amounts provided in subsection (1) of this section or in excess of the aggregate dollar rate limitations or both may be made for any authority purpose when so authorized at a special election under RCW 84.52.052. Any such tax when levied must be certified to the proper county officials for the collection of the tax as for other general taxes. The taxes when collected shall be placed in the appropriate authority fund or funds as provided by law, and must be paid out on warrants of the auditor of the county in which all, or the largest portion of, the authority is located, upon authorization of the governing board of the authority.

~~(3) ((Authorities are additionally authorized to incur general indebtedness and to issue general obligation bonds for capital purposes as provided in RCW 52.26.130.)) Authorities may provide for the retirement of general indebtedness by excess property tax levies((when the voters of the authority have approved a proposition authorizing such indebtedness and levies by an affirmative vote of three-fifths of those voting on the proposition at such an election, at which election the total number of persons voting shall constitute not less than forty percent of the voters in the authority who voted at the last preceding state general election. Elections must be held as provided in RCW 39.36.050. The maximum term of any bonds issued under the authority of this section may not exceed ten years and must be issued and sold in accordance with chapter 39.46 RCW)) as set forth in RCW 52.26.130.~~

(4) For purposes of this ((section)) chapter, the term "value of the taxable property" has the same meaning as in RCW 39.36.015.

Sec. 12. RCW 52.26.220 and 2004 c 129 s 28 are each amended to read as follows:

(1) Notwithstanding any other provision in this chapter to the contrary, any benefit charge authorized by this chapter is not effective unless a proposition to impose the benefit charge is approved by a sixty percent majority of the voters of the regional fire protection service authority voting at a general election or at a special election called by the authority for that purpose, held within the authority. A ballot measure that contains an authorization to impose benefit charges and that is approved by the voters pursuant to RCW 52.26.060 meets the proposition approval requirement of this section. An election held under this section must be held not more than twelve months prior to the date on which the first charge is to be assessed. A benefit charge approved at an election expires in six

years or fewer as authorized by the voters, unless subsequently reapproved by the voters.

(2) The ballot must be submitted so as to enable the voters favoring the authorization of a regional fire protection service authority benefit charge to vote "Yes" and those opposed to vote "No." The ballot question is as follows:

"Shall the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) be authorized to impose benefit charges each year for (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES NO

(3) Authorities renewing the benefit charge may elect to use the following alternative ballot:

"Shall the regional fire protection service authority composed of (insert the participating fire protection jurisdictions) be authorized to continue voter-authorized benefit charges each year for (insert number of years not to exceed six) years, not to exceed an amount equal to sixty percent of its operating budget, and be prohibited from imposing an additional property tax under RCW 52.26.140(1)(c)?

YES NO

On page 1, line 1 of the title, after "authorities;" strike the remainder of the title and insert "amending RCW 52.26.020, 52.26.040, 52.26.050, 52.26.060, 52.26.070, 52.26.090, 52.26.100, 52.26.130, 52.26.140, and 52.26.220; and adding new sections to chapter 52.26 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2345 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Simpson and Schindler spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2345 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2345, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloschia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2345, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2418, with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 43.185 RCW to read as follows:

The legislature finds that Washington is experiencing an affordable housing crisis and that this crisis is growing exponentially every year as the population of the state expands and housing values increase at a rate that far exceeds most households' proportionate increase in income.

The fiscal and societal costs of the lack of adequate affordable housing are high for both the public and private sectors. Current levels of funding for affordable housing programs are inadequate to meet the housing needs of many low-income Washington households.

NEW SECTION. Sec. 2. The legislature may authorize a transfer of up to twenty-five million dollars for the fiscal year ending June 30, 2006, into the Washington housing trust fund created in RCW 43.185.030. Any portion of this act that is appropriated to the department shall be included in the calculation of annual funds available for determining the administrative costs of the department, which shall not exceed five percent of the annual funds available for the housing assistance program and the affordable housing program as authorized under RCW 43.185.030 and 43.185A.030.

NEW SECTION. Sec. 3. A new section is added to chapter 43.185 RCW to read as follows:

The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure for the housing trust fund, described in this chapter and chapter 43.185A RCW, except for the funds applied to the homeless families services fund created in RCW 43.330.167, dollars appropriated to weatherization administered through the energy matchmaker program, dollars appropriated for housing vouchers for homeless persons, victims of domestic violence, and low-income persons or seasonal farm workers, and dollars appropriated to any program to provide financial assistance for grower-provided on-farm housing for low-income migrant or seasonal farm workers.

NEW SECTION. Sec. 4. A new section is added to chapter 43.185A RCW to read as follows:

The application process and distribution procedure for the allocation of funds are the same as the competitive application process and distribution procedure described in section 3 of this act.

NEW SECTION. Sec. 5. The department must report to the appropriate committees of the legislature how appropriated funds were utilized on a county or city specific basis no later than December 31, 2007.

Sec. 6. RCW 43.185C.010 and 2005 c 484 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, mentally ill people, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "Homeless housing account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the homeless housing account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, ~~((the director of))~~ policy level representatives of the following entities: (a) The department of community, trade, and economic development; (b) the ~~((secretary of the))~~ department of corrections; (c) the ~~((secretary of the))~~ department of social and health services; (d) the ~~((director of the))~~ department of veterans affairs; and (e) the ~~((secretary of the))~~ department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(18) "Washington homeless client management information system" means a data base of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

NEW SECTION. Sec. 7. A new section is added to chapter 43.185C RCW to read as follows:

(1) The interagency council on homelessness, as defined in RCW 43.185C.010, shall be convened not later than August 31, 2006, and shall meet at least two times each year and report to the appropriate committees of the legislature annually by December 31st on its activities.

(2) The interagency council on homelessness shall work to create greater levels of interagency coordination and to coordinate state agency efforts with the efforts of state and local entities addressing homelessness.

(3) The interagency council shall seek to:

(a) Align homeless-related housing and supportive service policies among state agencies;

(b) Identify ways in which providing housing with appropriate services can contribute to cost savings for state agencies;

(c) Identify policies and actions that may contribute to homelessness or interfere with its reduction;

(d) Review and improve strategies for discharge from state institutions that contribute to homelessness;

(e) Recommend policies to either improve practices or align resources, or both, including those policies requested by the affordable housing advisory board or through state and local housing plans; and

(f) Ensure that the housing status of people served by state programs is collected in consistent formats available for analysis.

Sec. 8. RCW 43.63A.655 and 1999 c 267 s 4 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement ~~((a))~~ the Washington homeless client management information system for the ongoing collection and ~~((analysis of))~~ updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census and from state agencies and community organizations providing services to homeless individuals and families. Personally identifying information about homeless individuals for the Washington homeless client management system may only be collected after having obtained informed, reasonably time limited written consent from the homeless individual to whom the information relates. Data collection shall be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals be informed about the expected duration of their participation, an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information, an explanation regarding whom to contact in the event of injury to the individual related to the homeless client survey, a description of any reasonably foreseeable risks to the homeless individual, and a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the data base with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies including the department of social and health services,

experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

~~((2))~~ (6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system shall be implemented by December 31, 2009, and updated with new homeless client information at least annually.

NEW SECTION. Sec. 9. (1) The department of community, trade, and economic development shall conduct a study to evaluate the potential development of a voluntary statewide, low-income household housing waiting list data base that would include information on all low-income households requesting housing assistance for the purpose of connecting such households with appropriate housing opportunities. The study shall investigate and evaluate the following:

(a) The anticipated benefits of such a statewide waiting list to low-income households and low-income housing providers;

(b) The cost of implementing and maintaining the data base; and

(c) Best practices from other states or from counties in other states that currently have a similar data base.

The department shall report the results of this study to the appropriate committees of the legislature by December 31, 2007.

(2) This section expires December 31, 2007.

NEW SECTION. Sec. 10. A new section is added to chapter 43.185A RCW to read as follows:

(1) The department shall create or purchase, and implement by December 31, 2009, a master affordable housing data base that includes specific information about existing affordable rental housing stock in the state of Washington. The data base shall be maintained and continually updated by the department, and the department may cross-reference and exchange information between this data base and other existing state housing data bases.

(2) The data base shall include information on all rental units that meet the affordable housing definition and have received or continue to receive funding from the federal, state, or local government, or other nonprofit organization or financing through the Washington housing finance commission. The department shall encourage private landlords to voluntarily submit information about private rental units that are affordable for low-income households to be included in the data base.

(3) The data base shall include information about rental units that shall be determined by the department. However, the data base must include, at a minimum, measures for quality, cost, safety, and size.

(4) Other state agencies, local governments, local public agencies, including water and sewer districts, housing authorities, and other housing organizations shall cooperate with the department to create and update the affordable housing data base by providing to the department any requested existing information about rental housing units within the jurisdiction.

(5) The data base shall be searchable by the department, local governments, community housing organizations, including housing authorities, and the public according to housing characteristics determined by the department including, at a minimum, location, cost, and size. The data base will be utilized for data collection about Washington's affordable rental housing stock and will also serve as

a low-income housing referral system to connect low-income households seeking housing with appropriate and available units.

NEW SECTION. Sec. 11. A new section is added to chapter 43.185A RCW to read as follows:

The department, the housing finance commission, the affordable housing advisory board, and all local governments, housing authorities, and other nonprofits receiving state housing funds or financing through the housing finance commission shall, by December 31, 2006, and annually thereafter, review current housing reporting requirements related to housing programs and services and give recommendations to streamline and simplify all planning and reporting requirements to the department of community, trade, and economic development, which will compile and present the recommendations annually to the legislature. The entities listed in this section shall also give recommendations for additional legislative actions that could promote affordable housing and end homelessness.

NEW SECTION. Sec. 12. A new section is added to chapter 35.82 RCW to read as follows:

A joint housing authority may be dissolved pursuant to substantially identical resolutions or ordinances of the legislative authority of each of the counties or cities that previously authorized that joint housing authority. These resolutions or ordinances may authorize the execution of an agreement among the counties, cities, and the joint housing authority that provides for the timing, distribution of assets, obligations and liabilities, and other matters deemed necessary or appropriate by the legislative authorities.

(2) Each resolution or ordinance dissolving a joint housing authority shall provide for the following:

(a) Activation or reactivation of a housing authority or joint housing authority by each of the cities and counties that previously authorized the joint housing authority and any additional cities or counties that are then to be added. This activation or reactivation takes effect upon the dissolution of the joint housing authority or at an earlier time provided in the resolutions or ordinances dissolving the joint housing authority; and

(b) Distribution of all assets, obligations, and liabilities of the joint housing authority to the housing authorities activated or reactivated under (a) of this subsection. Distribution of assets, obligations, and liabilities may be based on any, or a combination of any of, the following considerations:

(i) The population within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(ii) The number of housing units owned by the joint housing authority within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(iii) The number of low-income residents within the boundaries of each of the housing authorities activated or reactivated under (a) of this subsection;

(iv) The effect of the proposed distribution on the viability of the housing authorities activated or reactivated under (a) of this subsection; or

(v) Any other reasonable criteria to determine the distribution of assets, obligations, and liabilities.

(3) Each activated or reactivated housing authority shall be responsible for debt service on bonds or other obligations issued or incurred to finance the acquisition, construction, or improvement of the projects, properties, and other assets that have been distributed to them under the dissolution. However, if an outstanding bond issue is secured in whole or in part by the general revenues of the joint housing authority being dissolved, each housing authority activated

or reactivated under subsection (2)(a) of this section shall remain jointly and severally liable for retirement of debt service through repayment of those outstanding bonds and other obligations of the joint housing authority until paid or defeased, from general revenues of each of the activated or reactivated housing authorities, and from any other revenues and accounts that had been expressly pledged by the joint housing authority to the payment of those bonds or other obligations. As used in this subsection, "general revenues" means all revenues of a housing authority from any source, but only to the extent that those revenues are available to pay debt service on bonds or other obligations and are not then or thereafter pledged or restricted by law, regulation, contract, covenant, resolution, deed of trust, or otherwise, solely to another particular purpose.

NEW SECTION. Sec. 13. RCW 43.63A.655 is recodified as a section in chapter 43.185C RCW.

NEW SECTION. Sec. 14. If specific funding is not transferred from the general fund to the Washington housing trust fund for the purposes of this act, referencing this act by bill or chapter number, by June 30, 2006, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "housing;" strike the remainder of the title and insert "amending RCW 43.185C.010 and 43.63A.655; adding new sections to chapter 43.185 RCW; adding new sections to chapter 43.185A RCW; adding new sections to chapter 43.185C RCW; adding a new section to chapter 35.82 RCW; creating new sections; recodifying RCW 43.63A.655; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2418 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representative Miloscia spoke in favor the passage of the bill.

Representative Alexander spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 2418 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2418, as amended by the Senate and the bill passed the House by the following vote: Yeas - 74, Nays - 24, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Campbell, Chase, Clements, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 74.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Chandler, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Haler, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Rodne, Schindler, Sump, and Talcott - 24.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2418, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2553, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 48.110.010 and 1999 c 112 s 1 are each amended to read as follows:

The legislature finds that increasing numbers of businesses are selling service contracts for repair, replacement, and maintenance of motor vehicles, appliances, computers, electronic equipment, and other consumer products. There are risks that contract obligors will close or otherwise be unable to fulfill their contract obligations that could result in unnecessary and preventable losses to citizens of this state. The legislature declares that it is necessary to establish standards that will safeguard the public from possible losses arising from the conduct or cessation of the business of service contract obligors or the mismanagement of funds paid for service contracts. The purpose of this chapter is to create a legal framework within which service contracts may be sold in this state and to set forth requirements for conducting a service contract business.

Sec. 2. RCW 48.110.015 and 2000 c 208 s 1 are each amended to read as follows:

(1) The following are exempt from this title:

- (a) Warranties;
- (b) Maintenance agreements; and
- (c) Service contracts:

(i) Paid for with separate and additional consideration;

(ii) Issued at the point of sale, or within sixty days of the original purchase date of the property; and

(iii) On tangible property when the tangible property for which the service contract is sold has a purchase price of fifty dollars or less, exclusive of sales tax.

(2) This chapter does not apply to:

(a) ~~(Vehicle service contracts which are governed under chapter 48.96 RCW;~~

~~(b))~~ Vehicle mechanical breakdown insurance; and

~~((c))~~ (b) Service contracts on tangible personal property purchased by persons who are not consumers.

Sec. 3. RCW 48.110.020 and 2000 c 208 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Administrator" means the person who is responsible for the administration of the service contracts ~~((or))~~, the service contracts plan, or the protection product guarantees.

(2) "Commissioner" means the insurance commissioner of this state.

(3) "Consumer" means an individual who buys any tangible personal property that is primarily for personal, family, or household use.

(4) "Incidental costs" means expenses specified in the guarantee incurred by the protection product guarantee holder related to damages to other property caused by the failure of the protection product to perform as provided in the guarantee. "Incidental costs" may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of the stolen vehicle at the time of theft and the cost of a replacement vehicle, sales taxes, registration fees, transaction fees, and mechanical inspection fees. Incidental costs may be paid under the provisions of the protection product guarantee in either a fixed amount specified in the protection product guarantee or sales agreement, or by the use of a formula itemizing specific incidental costs incurred by the protection product guarantee holder to be paid.

(5) "Protection product" means any product offered or sold with a guarantee to repair or replace another product or pay incidental costs upon the failure of the product to perform pursuant to the terms of the protection product guarantee.

(6) "Protection product guarantee" means a written agreement by a protection product guarantee provider to repair or replace another product or pay incidental costs upon the failure of the protection product to perform pursuant to the terms of the protection product guarantee.

(7) "Protection product guarantee provider" means a person who is contractually obligated to the protection product guarantee holder under the terms of the protection product guarantee. Protection product guarantee provider does not include an authorized insurer providing a reimbursement insurance policy.

(8) "Protection product guarantee holder" means a person who is the purchaser or permitted transferee of a protection product guarantee.

(9) "Protection product seller" means the person who sells the protection product to the consumer.

(10) "Maintenance agreement" means a contract of limited duration that provides for scheduled maintenance only.

~~((5))~~ (11) "Motor vehicle" means any vehicle subject to registration under chapter 46.16 RCW.

(12) "Person" means an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal insurer, syndicate, or any similar entity or combination of entities acting in concert.

~~((6))~~ (13) "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

~~((7))~~ (14) "Provider fee" means the consideration paid by a consumer for a service contract.

~~((8))~~ (15) "Reimbursement insurance policy" means a policy of insurance that is issued to a service contract provider or a protection product guarantee provider to provide reimbursement to the service contract provider or the protection product guarantee provider or to pay on behalf of the service contract provider or the protection product guarantee provider all contractual obligations incurred by the service contract provider or the protection product guarantee provider under the terms of the insured service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

~~((9))~~ (16) "Service contract" means a contract or agreement for ~~((a separately stated))~~ consideration over and above the lease or purchase price of the property for a specific duration to perform the repair, replacement, or maintenance of property or the indemnification for repair, replacement, or maintenance for operational or structural failure due to a defect in materials or workmanship, or normal wear and tear. Service contracts may provide for the repair, replacement, or maintenance of property for damage resulting from power surges and accidental damage from handling, with or without additional provision for ~~((indemnity payments for incidental damages to other property directly caused by the failure of the property which is the subject of the service contract, provided the indemnity payment per incident does not exceed the purchase price of the property that is the subject of the service contract))~~ incidental payment of indemnity under limited circumstances, including towing, rental, emergency road services, or other expenses relating to the failure of the product or of a component part thereof.

~~((10))~~ (17) "Service contract holder" or "contract holder" means a person who is the purchaser or holder of a service contract.

~~((11))~~ (18) "Service contract provider" means a person who is contractually obligated to the service contract holder under the terms of the service contract.

~~((12))~~ (19) "Service contract seller" means the person who sells the service contract to the consumer.

~~((13))~~ (20) "Warranty" means a warranty made solely by the manufacturer, importer, or seller of property or services without consideration; that is not negotiated or separated from the sale of the product and is incidental to the sale of the product; and that guarantees indemnity for defective parts, mechanical or electrical breakdown, labor, or other remedial measures, such as repair or replacement of the property or repetition of services.

Sec. 4. RCW 48.110.030 and 2005 c 223 s 33 are each amended to read as follows:

(1) A person may not act as, or offer to act as, or hold himself or herself out to be a service contract provider in this state, nor may a service contract be sold to a consumer in this state, unless the service contract provider has a valid registration as a service contract provider issued by the commissioner.

(2) Applicants to be a service contract provider must make an application to the commissioner upon a form to be furnished by the commissioner. The application must include or be accompanied by the following information and documents:

(a) All basic organizational documents of the service contract provider, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust

agreement, shareholder agreement, bylaws, and other applicable documents, and all amendments to those documents;

(b) The identities of the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business, and, if more than fifty percent of the service contract provider's gross revenue is derived from the sale of service contracts, the identities of the service contract provider's directors and stockholders having beneficial ownership of ten percent or more of any class of securities;

(c) Audited annual financial statements or other financial reports acceptable to the commissioner for the two most recent years which prove that the applicant is solvent and any information the commissioner may require in order to review the current financial condition of the applicant. If the service contract provider is relying on RCW 48.110.050(2) ~~((a) or)~~ (c) to assure the faithful performance of its obligations to service contract holders, then the audited financial statements of the service contract provider's parent company ~~((may be substituted for the audited financial statements of the service contract provider))~~ must also be filed;

(d) An application fee of two hundred fifty dollars, which shall be deposited into the general fund; and

(e) Any other pertinent information required by the commissioner.

(3) The applicant shall appoint the commissioner as its attorney to receive service of legal process in any action, suit, or proceeding in any court. This appointment is irrevocable and shall bind the service contract provider or any successor in interest, shall remain in effect as long as there is in force in this state any contract or any obligation arising therefrom related to residents of this state, and shall be processed in accordance with RCW 48.05.210.

(4) The commissioner may refuse to issue a registration if the commissioner determines that the service contract provider, or any individual responsible for the conduct of the affairs of the service contract provider under subsection (2)(b) of this section, is not competent, trustworthy, financially responsible, or has had a license as a service contract provider or similar license denied or revoked for cause by any state.

(5) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the service contract provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the service contract provider and payment of a fee of two hundred dollars, which shall be deposited into the general fund. If not so renewed, the registration expires on the June 30th next preceding.

(6) A service contract provider shall keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

Sec. 5. RCW 48.110.040 and 2005 c 223 s 34 are each amended to read as follows:

(1) Every registered service contract provider ~~((that is assuring its faithful performance of its obligations to its service contract holders by complying with RCW 48.110.050(2)(b)))~~ must file an annual report for the preceding calendar year with the commissioner on or before March 1st of each year, or within any extension of time the commissioner for good cause may grant. The report must be in the form and contain those matters as the commissioner prescribes

and shall be verified by at least two officers of the service contract provider.

(2) At the time of filing the report, the service contract provider must pay a filing fee of twenty dollars which shall be deposited into the general fund.

(3) As part of any investigation by the commissioner, the commissioner may require a service contract provider to file monthly financial reports whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the service contract provider. Monthly financial statements must be filed in the commissioner's office no later than the twenty-fifth day of the month following the month for which the financial report is being filed. These monthly financial reports are the internal financial statements of the service contract provider. The monthly financial reports that are filed with the commissioner constitute information that might be damaging to the service contract provider if made available to its competitors, and therefore shall be kept confidential by the commissioner. This information may not be made public or be subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner.

Sec. 6. RCW 48.110.050 and 1999 c 112 s 6 are each amended to read as follows:

(1) Service contracts shall not be issued, sold, or offered for sale in this state or sold to consumers in this state unless the service contract provider has:

(a) Provided a receipt for, or other written evidence of, the purchase of the service contract to the contract holder; and

(b) Provided a copy of the service contract to the service contract holder within a reasonable period of time from the date of purchase.

(2) In order to either demonstrate its financial responsibility or assure the faithful performance of ((a)) the service contract provider's obligations to its service contract holders, every service contract provider shall ((be responsible for complying)) comply with the requirements of one of the following:

(a) Insure all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and is properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one;

(b)(i) Maintain a funded reserve account for its obligations under its service contracts issued and outstanding in this state. The reserves shall not be less than forty percent of the gross consideration received, less claims paid, on the sale of the service contract for all

in-force contracts. The reserve account shall be subject to examination and review by the commissioner; and

(ii) Place in trust with the commissioner a financial security deposit, having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than twenty-five thousand dollars, consisting of one of the following:

(A) A surety bond issued by an insurer holding a certificate of authority from the commissioner;

(B) Securities of the type eligible for deposit by authorized insurers in this state;

(C) Cash;

(D) An evergreen letter of credit issued by a qualified financial institution; or

(E) Another form of security prescribed by rule by the commissioner; or

(c)(i) Maintain, or its parent company maintain, a net worth or stockholder's equity of at least one hundred million dollars; and

(ii) Upon request, provide the commissioner with a copy of the service contract provider's or the service contract provider's parent company's most recent form 10-K or form 20-F filed with the securities and exchange commission within the last calendar year, or if the company does not file with the securities and exchange commission, a copy of the service contract provider's or the service contract provider's parent company's audited financial statements, which shows a net worth of the service contract provider or its parent company of at least one hundred million dollars. If the service contract provider's parent company's form 10-K, form 20-F, or audited financial statements are filed with the commissioner to meet the service contract provider's financial stability requirement, then the parent company shall agree to guarantee the obligations of the service contract provider relating to service contracts sold by the service contract provider in this state. A copy of the guarantee shall be filed with the commissioner. The guarantee shall be irrevocable as long as there is in force in this state any contract or any obligation arising from service contracts guaranteed, unless the parent company has made arrangements approved by the commissioner to satisfy its obligations under the guarantee.

(3) Service contracts shall require the service contract provider to permit the service contract holder to return the service contract within twenty days of the date the service contract was mailed to the service contract holder or within ten days of delivery if the service contract is delivered to the service contract holder at the time of sale, or within a longer time period permitted under the service contract. Upon return of the service contract to the service contract provider within the applicable period, if no claim has been made under the service contract prior to the return to the service contract provider, the service contract is void and the service contract provider shall refund to the service contract holder, or credit the account of the service contract holder with the full purchase price of the service contract. The right to void the service contract provided in this subsection is not transferable and shall apply only to the original service contract purchaser. A ten percent penalty per month shall be added to a refund of the purchase price that is not paid or credited within thirty days after return of the service contract to the service contract provider.

(4) ~~((Except for service contract providers, persons marketing, selling, or offering to sell service contracts for providers are exempt from the registration requirements of RCW 48.110.030.~~

~~(5) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts by service contract providers and related service contract sellers, administrators,~~

~~and other persons complying with this chapter are exempt from the other provisions of this title, except chapter 48.04 RCW and as otherwise provided in this chapter.)) This section does not apply to service contracts on motor vehicles or to protection product guarantees.~~

Sec. 7. RCW 48.110.060 and 1999 c 112 s 7 are each amended to read as follows:

(1) Reimbursement insurance policies insuring service contracts or protection product guarantees issued, sold, or offered for sale in this state or issued or sold to consumers in this state shall state that the insurer that issued the reimbursement insurance policy shall reimburse or pay on behalf of the service contract provider or the protection product guarantee provider all sums the service contract provider or the protection product guarantee provider is legally obligated to pay, including but not limited to the refund of the full purchase price of the service contract to the service contract holder or shall provide the service which the service contract provider or the protection product guarantee provider is legally obligated to perform according to the service contract provider's or protection product guarantee provider's contractual obligations under the service contracts or protection product guarantees issued or sold by the service contract provider or the protection product guarantee provider.

(2) The reimbursement insurance policy shall fully insure the obligations of the service contract provider or protection product guarantee provider, rather than partially insure, or insure only in the event of service contract provider or protection product guarantee provider default.

(3) The reimbursement insurance policy shall state that the service contract holder or protection product guarantee holder is entitled to apply directly to the reimbursement insurance company for payment or performance due.

Sec. 8. RCW 48.110.070 and 1999 c 112 s 8 are each amended to read as follows:

(1) Service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in this state or sold to residents of this state shall be written, printed, or typed in clear, understandable language that is easy to read, and disclose the requirements set forth in this section, as applicable.

(2) Service contracts insured under a reimbursement insurance policy under RCW 48.110.050(2)(a) and 48.110.060 shall not be issued, sold, or offered for sale in this state or sold to residents of this state unless the service contract conspicuously contains a statement in substantially the following form: "Obligations of the service contract provider under this service contract are insured under a service contract reimbursement insurance policy." The service contract shall also conspicuously state the name and address of the issuer of the reimbursement ~~((insurance))~~ insurance policy and state that the service contract holder is entitled to apply directly to the reimbursement insurance company.

(3) Service contracts not insured under a reimbursement insurance policy under RCW 48.110.050(2)(a) and 48.110.060 shall contain a statement in substantially the following form: "Obligations of the service contract provider under this contract are backed by the full faith and credit of the service contract provider."

(4) Service contracts shall state the name and address of the service contract provider and shall identify any administrator if different from the service contract provider, the service contract seller, and the service contract holder to the extent that the name of the service contract holder has been furnished by the service contract

holder. The identities of such parties are not required to be preprinted on the service contract and may be added to the service contract at the time of sale.

(5) Service contracts shall state the purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale.

(6) Service contracts shall state the procedure to obtain service or to file a claim, including but not limited to the procedures for obtaining prior approval for repair work, the toll-free telephone number if prior approval is necessary for service, and the procedure for obtaining emergency repairs performed outside of normal business hours or provide for twenty-four-hour telephone assistance.

(7) Service contracts shall state the existence of any deductible amount, if applicable.

(8) Service contracts shall specify the merchandise, parts, and services to be provided and any limitations, exceptions, or exclusions.

(9) Service contracts shall state any restrictions governing the transferability of the service contract, if applicable.

(10) Service contracts shall state the terms, restrictions, or conditions governing cancellation of the service contract prior to the termination or expiration date of the service contract by either the service contract provider or by the service contract holder, which rights can be no more restrictive than provided in RCW 48.110.050(3). The service contract provider of the service contract shall mail a written notice to the service contract holder at the last known address of the service contract holder contained in the records of the service contract provider at least twenty-one days prior to cancellation by the service contract provider. The notice shall state the effective date of the cancellation and the true and actual reason for the cancellation.

(11) Service contracts shall set forth the obligations and duties of the service contract holder, including but not limited to the duty to protect against any further damage and any requirement to follow owner's manual instructions.

(12) Service contracts shall state whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

(13) Service contracts shall state any exclusions of coverage.

(14) Service contracts shall not contain a provision which requires that any civil action brought in connection with the service contract must be brought in the courts of a jurisdiction other than this state. Service contracts that authorize binding arbitration to resolve claims or disputes ~~((may))~~ must allow for arbitration proceedings to be held at a location in closest proximity to the service contract holder's permanent residence.

This section does not apply to service contracts on motor vehicles or to protection product guarantees.

Sec. 9. RCW 48.110.080 and 1999 c 112 s 9 are each amended to read as follows:

(1) A service contract provider or protection product guarantee provider shall not use in its name the words insurance, casualty, guaranty, surety, mutual, or any other words descriptive of the insurance, casualty, guaranty, or surety business; or a name deceptively similar to the name or description of any insurance or surety corporation, or to the name of any other service contract provider or protection product guarantee provider. This subsection does not apply to a company that was using any of the prohibited language in its name prior to January 1, 1999. However, a company using the prohibited language in its name shall conspicuously

disclose in its service contracts or protection product guarantees the following statement: "This agreement is not an insurance contract."

(2) Every service contract provider or protection product guarantee provider shall conduct its business in its own legal name, unless the commissioner has approved the use of another name.

(3) A service contract provider or protection product guarantee provider or ~~((its))~~ their representatives shall not in ~~((its))~~ their service contracts or protection product guarantees or literature make, permit, or cause to be made any false or misleading statement, or deliberately omit any material statement that would be considered misleading if omitted.

(4) A person, such as a bank, savings and loan association, lending institution, manufacturer, or seller shall not require the purchase of a service contract or protection product as a condition of a loan or a condition for the sale of any property.

Sec. 10. RCW 48.110.090 and 1999 c 112 s 10 are each amended to read as follows:

(1) The service contract provider or protection product guarantee provider shall keep accurate accounts, books, and records concerning transactions regulated under this chapter.

(2) The service contract provider's or protection product guarantee provider's accounts, books, and records shall include the following:

(a) Copies of each type of service contract or protection product guarantees offered, issued, or sold;

(b) The name and address of each service contract holder or protection product guarantee holder, to the extent that the name and address have been furnished by the service contract holder or protection product guarantee holder;

(c) A list of the locations where the service contracts or protection products are marketed, sold, or offered for sale; and

(d) Written claim files that contain at least the dates, amounts, and descriptions of claims related to the service contracts or protection products.

(3) Except as provided in subsection (5) of this section, the service contract provider or protection product guarantee provider shall retain all records required to be maintained by subsection (1) of this section for at least six years after the specified coverage has expired.

(4) The records required under this chapter may be, but are not required to be, maintained on a computer disk or other recordkeeping technology. If the records are maintained in other than hard copy, the records shall be capable of duplication to legible hard copy.

(5) A service contract provider or protection product guarantee provider discontinuing business in this state shall maintain its records until it furnishes the commissioner satisfactory proof that it has discharged all obligations to service contract holders or protection product guarantee holders in this state.

Sec. 11. RCW 48.110.100 and 1999 c 112 s 11 are each amended to read as follows:

As applicable, an insurer that issued a reimbursement insurance policy shall not terminate the policy until a notice of termination in accordance with RCW 48.18.290 has been given to the service contract provider or protection product guarantee provider and has been delivered to the commissioner. The termination of a reimbursement insurance policy does not reduce the issuer's responsibility for service contracts issued by service contract providers or protection product guarantees issued by protection product guarantee providers prior to the effective date of the termination.

Sec. 12. RCW 48.110.110 and 1999 c 112 s 12 are each amended to read as follows:

(1) Service contract providers or protection product guarantee providers are considered to be the agent of the insurer which issued the reimbursement insurance policy for purposes of obligating the insurer to service contract holders or protection product guarantee holders in accordance with the service contract or protection product guarantee holders and this chapter. Payment of the provider fee by the consumer to the service contract seller, service contract provider, or administrator or payment of consideration for the protection product to the protection product seller constitutes payment by the consumer to the service contract provider or protection product guarantee provider and to the insurer which issued the reimbursement insurance policy. In cases where a service contract provider or protection product guarantee provider is acting as an administrator and enlists other service contract providers or protection product guarantee providers, the service contract provider or protection product guarantee provider acting as the administrator shall notify the insurer of the existence and identities of the other service contract providers or protection product guarantee providers.

(2) (~~Chapter 112, Laws of 1999~~) This chapter does not prevent or limit the right of an insurer which issued a reimbursement insurance policy to seek indemnification or subrogation against a service contract provider or protection product guarantee provider if the issuer pays or is obligated to pay the service contract holder or protection product guarantee holder sums that the service contract provider or protection product guarantee provider was obligated to pay under the provisions of the service contract or protection product guarantee.

Sec. 13. RCW 48.110.120 and 1999 c 112 s 13 are each amended to read as follows:

(1) The commissioner may conduct investigations of service contract providers or protection product guarantee providers, administrators, service contract sellers or protection product sellers, insurers, and other persons to enforce this chapter and protect service contract holders or protection product guarantee holders in this state. Upon request of the commissioner, the service contract provider or protection product guarantee provider shall make all accounts, books, and records concerning service contracts or protection products offered, issued, or sold by the service contract provider or protection product guarantee provider available to the commissioner which are necessary to enable the commissioner to determine compliance or noncompliance with this chapter.

(2) The commissioner may take actions under RCW 48.02.080 or 48.04.050 which are necessary or appropriate to enforce this chapter and the commissioner's rules and orders, and to protect service contract holders or protection product guarantee holders in this state.

Sec. 14. RCW 48.110.130 and 1999 c 112 s 14 are each amended to read as follows:

(1) The commissioner may, subject to chapter 48.04 RCW, deny, suspend, or revoke the registration of a service contract provider or protection product guarantee provider if the commissioner finds that the service contract provider or protection product guarantee provider:

(a) Has violated this chapter or the commissioner's rules and orders;

(b) Has refused to be investigated or to produce its accounts, records, and files for investigation, or if any of its officers have refused to give information with respect to its affairs or refused to

perform any other legal obligation as to an investigation, when required by the commissioner;

(c) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused service contract holders or protection product guarantee holders to accept less than the amount due them or caused service contract holders or protection product guarantee holders to employ attorneys or bring suit against the service contract provider or protection product guarantee provider to secure full payment or settlement of claims;

(d) Is affiliated with or under the same general management or interlocking directorate or ownership as another service contract provider or protection product guarantee provider which unlawfully transacts business in this state without having a registration;

(e) At any time fails to meet any qualification for which issuance of the registration could have been refused had such failure then existed and been known to the commissioner;

(f) Has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony;

(g) Is under suspension or revocation in another state with respect to its service contract business or protection product business;

(h) Has made a material misstatement in its application for registration;

(i) Has obtained or attempted to obtain a registration through misrepresentation or fraud;

(j) Has, in the transaction of business under its registration, used fraudulent, coercive, or dishonest practices; ~~((or))~~

(k) Has failed to pay any judgment rendered against it in this state regarding a service contract or protection product guarantee within sixty days after the judgment has become final; or

(l) Has failed to respond promptly to any inquiry from the insurance commissioner relative to service contract or protection product business. A lack of response within fifteen business days from receipt of an inquiry is untimely. A response must be in writing, unless otherwise indicated in the inquiry.

(2) The commissioner may, without advance notice or hearing thereon, immediately suspend the registration of a service contract provider or protection product guarantee provider if the commissioner finds that any of the following circumstances exist:

(a) The provider is insolvent;

(b) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the service contract provider or protection product guarantee provider has been commenced in any state; or

(c) The financial condition or business practices of the service contract provider or protection product guarantee provider otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this state.

(3) If the commissioner finds that grounds exist for the suspension or revocation of a registration issued under this chapter, the commissioner may, in lieu of suspension or revocation, impose a fine upon the service contract provider or protection product guarantee provider in an amount not more than two thousand dollars per violation.

Sec. 15. RCW 48.110.140 and 1999 c 112 s 15 are each amended to read as follows:

The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this chapter are not reasonable in relation to the development and preservation of business. A violation of this

chapter is an unfair or deceptive act or practice in the conduct of trade or commerce and an unfair method of competition, as specifically contemplated by RCW 19.86.020, and is a violation of the consumer protection act, chapter 19.86 RCW. Any service contract holder or protection product guarantee holder injured as a result of a violation of a provision of this chapter shall be entitled to maintain an action pursuant to chapter 19.86 RCW against the service contract provider or protection product guarantee provider and the insurer issuing the applicable service contract or protection product guarantee reimbursement ((insurance)) insurance policy and shall be entitled to all of the rights and remedies afforded by that chapter.

Sec. 16. RCW 48.110.900 and 1999 c 112 s 17 are each amended to read as follows:

This chapter applies to all service contracts, other than on motor vehicles, sold or offered for sale ninety or more days after July 25, 1999. This chapter applies to all service contracts on motor vehicles and protection products sold or offered for sale after September 30, 2006.

NEW SECTION. Sec. 17. A new section is added to chapter 48.110 RCW to read as follows:

(1) This section applies to protection product guarantee providers.

(2) A person shall not act as, or offer to act as, or hold himself or herself out to be a protection product guarantee provider in this state, nor may a protection product be sold to a consumer in this state, unless the protection product guarantee provider has:

(a) A valid registration as a protection product guarantee provider issued by the commissioner; and

(b) Either demonstrated its financial responsibility or assured the faithful performance of the protection product guarantee provider's obligations to its protection product guarantee holders by insuring all protection product guarantees under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one.

(3) Applicants to be a protection product guarantee provider shall make an application to the commissioner upon a form to be furnished by the commissioner. The application shall include or be accompanied by the following information and documents:

(a) The names of the protection product guarantee provider's executive officer or officers directly responsible for the protection product guarantee provider's protection product guarantee business

and their biographical affidavits on a form prescribed by the commissioner;

(b) The name, address, and telephone number of any administrators designated by the protection product guarantee provider to be responsible for the administration of protection product guarantees in this state;

(c) A copy of the protection product guarantee reimbursement insurance policy or policies;

(d) A copy of each protection product guarantee the protection product guarantee provider proposes to use in this state;

(e) Any other pertinent information required by the commissioner; and

(f) A nonrefundable application fee of two hundred fifty dollars.

(4) The applicant shall appoint the commissioner as its attorney to receive service of legal process in any action, suit, or proceeding in any court. This appointment is irrevocable and shall bind the protection product guarantee provider or any successor in interest, shall remain in effect as long as there is in force in this state any protection product guarantee or any obligation arising therefrom related to residents of this state, and shall be processed in accordance with RCW 48.05.210.

(5) The commissioner may refuse to issue a registration if the commissioner determines that the protection product guarantee provider, or any individual responsible for the conduct of the affairs of the protection product guarantee provider under subsection (3)(a) of this section, is not competent, trustworthy, financially responsible, or has had a license as a protection product guarantee provider or similar license denied or revoked for cause by any state.

(6) A registration issued under this section is valid, unless surrendered, suspended, or revoked by the commissioner, or not renewed for so long as the protection product guarantee provider continues in business in this state and remains in compliance with this chapter. A registration is subject to renewal annually on the first day of July upon application of the protection product guarantee provider and payment of a fee of two hundred fifty dollars. If not so renewed, the registration expires on the June 30th next preceding.

(7) A protection product guarantee provider shall keep current the information required to be disclosed in its registration under this section by reporting all material changes or additions within thirty days after the end of the month in which the change or addition occurs.

NEW SECTION. Sec. 18. A new section is added to chapter 48.110 RCW to read as follows:

(1) This section applies to service contracts on motor vehicles.

(2) Service contracts shall not be issued, sold, or offered for sale in this state or sold to consumers in this state unless:

(a) The service contract provider has either demonstrated its financial responsibility or assured the faithful performance of the service contract provider's obligations to its service contract holders by insuring all service contracts under a reimbursement insurance policy issued by an insurer holding a certificate of authority from the commissioner or a risk retention group, as defined in 15 U.S.C. Sec. 3901(a)(4), as long as that risk retention group is in full compliance with the federal liability risk retention act of 1986 (15 U.S.C. Sec. 3901 et seq.), is in good standing in its domiciliary jurisdiction, and properly registered with the commissioner under chapter 48.92 RCW. The insurance required by this subsection must meet the following requirements:

(i) The insurer or risk retention group must, at the time the policy is filed with the commissioner, and continuously thereafter, maintain surplus as to policyholders and paid-in capital of at least

fifteen million dollars and annually file audited financial statements with the commissioner; and

(ii) The commissioner may authorize an insurer or risk retention group that has surplus as to policyholders and paid-in capital of less than fifteen million dollars, but at least equal to ten million dollars, to issue the insurance required by this subsection if the insurer or risk retention group demonstrates to the satisfaction of the commissioner that the company maintains a ratio of direct written premiums, wherever written, to surplus as to policyholders and paid-in capital of not more than three to one;

(b) The service contract conspicuously states that the obligations of the provider to the service contract holder are guaranteed under the reimbursement insurance policy, the name and address of the issuer of the reimbursement insurance policy, the applicable policy number, and the means by which a service contract holder may file a claim under the policy;

(c) The service contract conspicuously and unambiguously states the name and address of the service contract provider and identifies any administrator if different from the service contract provider, the service contract seller, and the service contract holder. The identity of the service contract seller and the service contract holder are not required to be preprinted on the service contract and may be added to the service contract at the time of sale;

(d) The service contract states the purchase price of the service contract and the terms under which the service contract is sold. The purchase price is not required to be preprinted on the service contract and may be negotiated at the time of sale;

(e) The contract contains a conspicuous statement that has been initialed by the service contract holder and discloses:

(i) Any material conditions that the service contract holder must meet to maintain coverage under the contract including, but not limited to, any maintenance schedule to which the service contract holder must adhere, any requirement placed on the service contract holder for documenting repair or maintenance work, any duty to protect against any further damage, and any procedure to which the service contract holder must adhere for filing claims;

(ii) The work and parts covered by the contract;

(iii) Any time or mileage limitations;

(iv) That the implied warranty of merchantability on the motor vehicle is not waived if the contract has been purchased within ninety days of the purchase date of the motor vehicle from a provider or service contract seller who also sold the motor vehicle covered by the contract;

(v) Any exclusions of coverage; and

(vi) The contract holder's right to return the contract for a refund, which right can be no more restrictive than provided for in subsection (4) of this section;

(f) The service contract states the procedure to obtain service or to file a claim, including but not limited to the procedures for obtaining prior approval for repair work, the toll-free telephone number if prior approval is necessary for service, and the procedure for obtaining emergency repairs performed outside of normal business hours or for obtaining twenty-four-hour telephone assistance;

(g) The service contract states the existence of any deductible amount, if applicable;

(h) The service contract states any restrictions governing the transferability of the service contract, if applicable; and

(i) The service contract states whether or not the service contract provides for or excludes consequential damages or preexisting conditions.

(3) Service contracts shall not contain a provision which requires that any civil action brought in connection with the service contract must be brought in the courts of a jurisdiction other than this state. Service contracts that authorize binding arbitration to resolve claims or disputes must allow for arbitration proceedings to be held at a location in closest proximity to the service contract holder's permanent residence.

(4)(a) At a minimum, every provider shall permit the service contract holder to return the contract within thirty days of its purchase if no claim has been made under the contract, and shall refund to the holder the full purchase price of the contract unless the service contract holder returns the contract ten or more days after its purchase, in which case the provider may charge a cancellation fee not exceeding twenty-five dollars.

(b) If no claim has been made and a contract holder returns the contract after thirty days, the provider shall refund the purchase price pro rata based upon either elapsed time or mileage computed from the date the contract was purchased and the mileage on that date, less a cancellation fee not exceeding twenty-five dollars.

(c) A ten percent penalty shall be added to any refund that is not paid within thirty days of return of the contract to the provider.

(d) If a contract holder returns the contract under this subsection, the contract is void from the beginning and the parties are in the same position as if no contract had been issued.

(e) If a service contract holder returns the contract in accordance with this section, the insurer issuing the reimbursement insurance policy covering the contract shall refund to the provider the full premium by the provider for the contract if canceled within thirty days or a pro rata refund if canceled after thirty days.

(5) A service contract provider shall not deny a claim for coverage based upon the service contract holder's failure to properly maintain the vehicle, unless the failure to maintain the vehicle involved the failed part or parts.

(6) A contract provider has only sixty days from the date of the sale of the service contract to the holder to determine whether or not the vehicle qualifies under the provider's program for that vehicle. After sixty days the vehicle qualifies for the service contract that was issued and the service contract provider may not cancel the contract and is fully obligated under the terms of the contract sold to the service contract holder.

NEW SECTION. Sec. 19. A new section is added to chapter 48.110 RCW to read as follows:

(1) Except for service contract providers or protection product guarantee providers, persons marketing, selling, or offering to sell service contracts or protection products for providers are exempt from the registration requirements of RCW 48.110.030.

(2) The marketing, sale, offering for sale, issuance, making, proposing to make, and administration of service contracts or protection products by service contract providers or protection product guarantee providers and related service contract or protection product sellers, administrators, and other persons complying with this chapter are exempt from the other provisions of this title, except chapters 48.04 and 48.30 RCW and as otherwise provided in this chapter.

NEW SECTION. Sec. 20. A new section is added to chapter 48.110 RCW to read as follows:

(1) If the service contract provider or protection product guarantee provider is using reimbursement insurance policy to satisfy the requirements of RCW 48.110.050(2)(a) or section 17(2)(b) or 18(2)(a) of this act, then the reimbursement insurance policy shall be

filed with and approved by the commissioner in accordance with and pursuant to the requirements of chapter 48.18 RCW.

(2) All service contracts forms covering motor vehicles must be filed with and approved by the commissioner prior to the service contract forms being used, issued, delivered, sold, or marketed in this state or to residents of this state.

(3) All service contracts forms covering motor vehicles being used, issued, delivered, sold, or marketed in this state or to residents of this state by motor vehicle manufacturers or import distributors or wholly owned subsidiaries thereof must be filed with the commissioner for approval within sixty days after the motor vehicle manufacturer or import distributor or wholly owned subsidiary thereof begins using the service contracts forms.

(4) The commissioner shall disapprove any motor vehicle service contract form if:

(a) The form is in any respect in violation of, or does not comply with, this chapter or any applicable order or regulation of the commissioner issued under this chapter;

(b) The form contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions;

(c) The form has any title, heading, or other indication of its provisions that is misleading; or

(d) The purchase of the contract is being solicited by deceptive advertising.

NEW SECTION. Sec. 21. (1) RCW 48.110.030 (2) (a) and (b), (3), and (4), 48.110.040, 48.110.060, 48.110.100, 48.110.110, section 18 (2)(a) and (b) and (4)(e) of this act, and section 20 (1) and (2) of this act do not apply to motor vehicle service contracts issued by a motor vehicle manufacturer or import distributor covering vehicles manufactured or imported by the motor vehicle manufacturer or import distributor.

(2) RCW 48.110.030(2)(c) does not apply to a publicly traded motor vehicle manufacturer or import distributor.

(3) RCW 48.110.030 (2) (a) through (c), (3), and (4), 48.110.040, and section 20(2) of this act do not apply to wholly owned subsidiaries of motor vehicle manufacturers or import distributors.

(4) The adoption of this act does not imply that a vehicle protection product warranty was insurance prior to October 1, 2006.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. The following acts or parts of acts are each repealed:

- (1) RCW 48.96.005 (Purpose) and 1990 c 239 s 2;
- (2) RCW 48.96.010 (Definitions) and 1987 c 99 s 1;
- (3) RCW 48.96.020 (Reimbursement policy required for sale of service contract) and 1987 c 99 s 2;
- (4) RCW 48.96.025 (Reimbursement policy--Insurer's responsibility) and 1990 c 239 s 3;
- (5) RCW 48.96.030 (Reimbursement policy--Required provisions) and 1990 c 239 s 6 & 1987 c 99 s 3;
- (6) RCW 48.96.040 (Service contract--Required statements) and 1990 c 239 s 7 & 1987 c 99 s 4;
- (7) RCW 48.96.045 (Service contract--Notice to holder) and 1990 c 239 s 4;

(8) RCW 48.96.047 (Service contract--Holder's right to return) and 1990 c 239 s 5;

(9) RCW 48.96.050 (Service contracts--Excluded parties) and 1990 c 239 s 8 & 1987 c 99 s 5;

(10) RCW 48.96.060 (Noncompliance as unfair competition, trade practice--Remedies) and 1990 c 239 s 9 & 1987 c 99 s 6;

(11) RCW 48.96.900 (Application of chapter--Date) and 1987 c 99 s 7; and

(12) RCW 48.96.901 (Effective date--1990 c 239 §§ 2-10) and 1990 c 239 s 11.

NEW SECTION. Sec. 24. This act takes effect October 1, 2006."

On page 1, line 2 of the title, after "products;" strike the remainder of the title and insert "amending RCW 48.110.010, 48.110.015, 48.110.020, 48.110.030, 48.110.040, 48.110.050, 48.110.060, 48.110.070, 48.110.080, 48.110.090, 48.110.100, 48.110.110, 48.110.120, 48.110.130, 48.110.140, and 48.110.900; adding new sections to chapter 48.110 RCW; creating a new section; repealing RCW 48.96.005, 48.96.010, 48.96.020, 48.96.025, 48.96.030, 48.96.040, 48.96.045, 48.96.047, 48.96.050, 48.96.060, 48.96.900, and 48.96.901; prescribing penalties; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2553 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kirby and Roach spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2553 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2553, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald,

McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2553, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2575, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 70.14 RCW to read as follows:

DEFINITIONS. The definitions in this section apply throughout sections 2 through 7 of this act unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the Washington state health care authority under chapter 41.05 RCW.

(2) "Advisory group" means a group established under section 4(2)(c) of this act.

(3) "Committee" means the health technology clinical committee established under section 2 of this act.

(4) "Coverage determination" means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state purchased health care program.

(5) "Health technology" means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies does not include prescription drugs governed by RCW 70.14.050.

(6) "Participating agency" means the department of social and health services, the state health care authority, and the department of labor and industries.

(7) "Reimbursement determination" means a determination to provide or deny reimbursement for a health technology included as a covered benefit in a specific circumstance for an individual patient who is eligible to receive health care services from the state purchased health care program making the determination.

NEW SECTION. Sec. 2. A new section is added to chapter 70.14 RCW to read as follows:

HEALTH TECHNOLOGY COMMITTEE ESTABLISHED.

(1) A health technology clinical committee is established, to include the following eleven members appointed by the administrator in consultation with participating state agencies:

(a) Six practicing physicians licensed under chapter 18.57 or 18.71 RCW; and

(b) Five other practicing licensed health professionals who use health technology in their scope of practice.

At least two members of the committee must have professional experience treating women, children, elderly persons, and people with diverse ethnic and racial backgrounds.

(2) Members of the committee:

(a) Shall not contract with or be employed by a health technology manufacturer or a participating agency during their term or for eighteen months before their appointment. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest;

(b) Are immune from civil liability for any official acts performed in good faith as members of the committee; and

(c) Shall be compensated for participation in the work of the committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the committee.

(3) Meetings of the committee and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(I), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information.

(4) Neither the committee nor any advisory group is an agency for purposes of chapter 34.05 RCW.

(5) The health care authority shall provide administrative support to the committee and any advisory group, and may adopt rules governing their operation.

NEW SECTION. Sec. 3. A new section is added to chapter 70.14 RCW to read as follows:

TECHNOLOGY SELECTION AND ASSESSMENT. (1) The administrator, in consultation with participating agencies and the committee, shall select the health technologies to be reviewed by the committee under section 4 of this act. Up to six may be selected for review in the first year after the effective date of this act, and up to eight may be selected in the second year after the effective date of this act. In making the selection, priority shall be given to any technology for which:

(a) There are concerns about its safety, efficacy, or cost-effectiveness, especially relative to existing alternatives, or significant variations in its use;

(b) Actual or expected state expenditures are high, due to demand for the technology, its cost, or both; and

(c) There is adequate evidence available to conduct the complete review.

(2) A health technology for which the committee has made a determination under section 4 of this act shall be considered for rereview at least once every eighteen months, beginning the date the determination is made. The administrator, in consultation with participating agencies and the committee, shall select the technology for rereview if he or she decides that evidence has since become available that could change a previous determination. Upon rereview, consideration shall be given only to evidence made available since the previous determination.

(3) Pursuant to a petition submitted by an interested party, the health technology clinical committee may select health technologies for review that have not otherwise been selected by the administrator under subsection (1) or (2) of this section.

(4) Upon the selection of a health technology for review, the administrator shall contract for a systematic evidence-based assessment of the technology's safety, efficacy, and cost-effectiveness. The contract shall:

(a) Be with an evidence-based practice center designated as such by the federal agency for health care research and quality, or other appropriate entity;

(b) Require the assessment be initiated no sooner than thirty days after notice of the selection of the health technology for review is posted on the internet under section 7 of this act;

(c) Require, in addition to other information considered as part of the assessment, consideration of: (i) Safety, health outcome, and cost data submitted by a participating agency; and (ii) evidence submitted by any interested party; and

(d) Require the assessment to: (i) Give the greatest weight to the evidence determined, based on objective indicators, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies; and (ii) take into account any unique impacts of the technology on specific populations based upon factors such as sex, age, ethnicity, race, or disability.

NEW SECTION. Sec. 4. A new section is added to chapter 70.14 RCW to read as follows:

HEALTH TECHNOLOGY COMMITTEE DETERMINATIONS. (1) The committee shall determine, for each health technology selected for review under section 3 of this act: (a) The conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies; and (b) if covered, the criteria which the participating agency administering the program must use to decide whether the technology is medically necessary, or proper and necessary treatment.

(2) In making a determination under subsection (1) of this section, the committee:

(a) Shall consider, in an open and transparent process, evidence regarding the safety, efficacy, and cost-effectiveness of the technology as set forth in the systematic assessment conducted under section 3(4) of this act;

(b) Shall provide an opportunity for public comment; and

(c) May establish ad hoc temporary advisory groups if specialized expertise is needed to review a particular health technology or group of health technologies, or to seek input from enrollees or clients of state purchased health care programs. Advisory group members are immune from civil liability for any official act performed in good faith as a member of the group. As a condition of appointment, each person shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest.

(3) Determinations of the committee under subsection (1) of this section shall be consistent with decisions made under the federal medicare program and in expert treatment guidelines, including those from specialty physician organizations and patient advocacy organizations, unless the committee concludes, based on its review of the systematic assessment, that substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology supports a contrary determination.

NEW SECTION. Sec. 5. A new section is added to chapter 70.14 RCW to read as follows:

COMPLIANCE BY STATE AGENCIES. (1) A participating agency shall comply with a determination of the committee under section 4 of this act unless:

(a) The determination conflicts with an applicable federal statute or regulation, or applicable state statute; or

(b) Reimbursement is provided under an agency policy regarding experimental or investigational treatment, services under a clinical investigation approved by an institutional review board, or health technologies that have a humanitarian device exemption from the federal food and drug administration.

(2) For a health technology not selected for review under section 3 of this act, a participating agency may use its existing statutory and administrative authority to make coverage and reimbursement determinations. Such determinations shall be shared among agencies, with a goal of maximizing each agency's understanding of the basis for the other's decisions and providing opportunities for agency collaboration.

(3) A health technology not included as a covered benefit under a state purchased health care program pursuant to a determination of the health technology clinical committee under section 4 of this act, or for which a condition of coverage established by the committee is not met, shall not be subject to a determination in the case of an individual patient as to whether it is medically necessary, or proper and necessary treatment.

(4) Nothing in this act diminishes an individual's right under existing law to appeal an action or decision of a participating agency regarding a state purchased health care program. Appeals shall be governed by state and federal law applicable to participating agency decisions.

NEW SECTION. Sec. 6. A new section is added to chapter 70.14 RCW to read as follows:

APPEAL PROCESS. The administrator shall establish an open, independent, transparent, and timely process to enable patients, providers, and other stakeholders to appeal the determinations of the health technology clinical committee made under section 4 of this act.

NEW SECTION. Sec. 7. A new section is added to chapter 70.14 RCW to read as follows:

PUBLIC NOTICE. (1) The administrator shall develop a centralized, internet-based communication tool that provides, at a minimum:

(a) Notification when a health technology is selected for review under section 3 of this act, indicating when the review will be initiated and how an interested party may submit evidence, or provide public comment, for consideration during the review;

(b) Notification of any determination made by the committee under section 4(1) of this act, its effective date, and an explanation of the basis for the determination; and

(c) Access to the systematic assessment completed under section 3(4) of this act, and reports completed under subsection (2) of this section.

(2) Participating agencies shall develop methods to report on the implementation of this section and sections 1 through 6 of this act with respect to health care outcomes, frequency of exceptions, cost outcomes, and other matters deemed appropriate by the administrator.

Sec. 8. RCW 41.05.013 and 2005 c 462 s 3 are each amended to read as follows:

(1) The authority shall coordinate state agency efforts to develop and implement uniform policies across state purchased health care programs that will ensure prudent, cost-effective health services purchasing, maximize efficiencies in administration of state purchased health care programs, improve the quality of care provided through state purchased health care programs, and reduce administrative burdens on health care providers participating in state purchased health care programs. The policies adopted should be

based, to the extent possible, upon the best available scientific and medical evidence and shall endeavor to address:

(a) Methods of formal assessment, such as a health technology assessment under sections 1 through 7 of this act. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board;

(b) Monitoring of health outcomes, adverse events, quality, and cost-effectiveness of health services;

(c) Development of a common definition of medical necessity; and

(d) Exploration of common strategies for disease management and demand management programs, including asthma, diabetes, heart disease, and similar common chronic diseases. Strategies to be explored include individual asthma management plans. On January 1, 2007, and January 1, 2009, the authority shall issue a status report to the legislature summarizing any results it attains in exploring and coordinating strategies for asthma, diabetes, heart disease, and other chronic diseases.

(2) The administrator may invite health care provider organizations, carriers, other health care purchasers, and consumers to participate in efforts undertaken under this section.

(3) For the purposes of this section "best available scientific and medical evidence" means the best available clinical evidence derived from systematic research.

NEW SECTION. Sec. 9. A new section is added to chapter 70.14 RCW to read as follows:

Sections 1 through 7 of this act and RCW 41.05.013 do not apply to state purchased health care services that are purchased from or through health carriers as defined in RCW 48.43.005.

NEW SECTION. Sec. 10. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 11. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 41.05.013; adding new sections to chapter 70.14 RCW; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2575 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Morrell and Hinkle spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Second Substitute House Bill No. 2575 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2575, as amended by the Senate and the bill passed the House by the following vote: Yeas - 97, Nays - 1, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 97.

Voting nay: Representative Chandler - 1.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2575, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUE HOUSE BILL NO. 2678, with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.148.020 and 2005 c 518 s 942 are each amended to read as follows:

(1) The pollution liability insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the pollution liability insurance and underground storage tank community assistance programs. Expenditures for payment of administrative and operating costs of the agency are subject to the allotment procedures under

chapter 43.88 RCW and may be made only after appropriation by statute. No appropriation is required for other expenditures from the account.

(2) Each calendar quarter, the director shall report to the insurance commissioner the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

(3) Each calendar quarter the director shall determine the amount of reserves necessary to fund commitments made to provide financial assistance under RCW 70.148.130 to the extent that the financial assistance reserves do not jeopardize the operations and liabilities of the pollution liability insurance program. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter. The director may immediately establish an initial financial assistance reserve of five million dollars from available revenues. The director may not expend more than fifteen million dollars for the financial assistance program.

(4) During the 2005-2007 fiscal biennium, the legislature may transfer from the pollution liability insurance program trust account to the state general fund such amounts as reflect the excess fund balance of the account.

(5) This section expires June 1, ~~((2007))~~ 2013.

Sec. 2. RCW 70.148.050 and 1998 c 245 s 115 are each amended to read as follows:

The director has the following powers and duties:

(1) To design and from time to time revise a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall prepare an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the director shall consider common insurance industry reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the director deems appropriate, and to annually publish a financial report on the pollution liability insurance program trust account showing, among other things, administrative and other expenses paid from the fund.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

~~(8) ((To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.~~

~~—(9))~~ To enter into contracts with public and private agencies to assist the director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the director.

~~((+0))~~ (9) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the director deems advisable.

Sec. 3. RCW 70.148.900 and 2000 c 16 s 1 are each amended to read as follows:

This chapter shall expire June 1, ~~((2007))~~ 2013.

Sec. 4. RCW 70.149.900 and 2000 c 16 s 2 are each amended to read as follows:

Sections 1 through 11 of this act shall expire June 1, ~~((2007))~~ 2013.

Sec. 5. RCW 82.23A.902 and 2000 c 16 s 3 are each amended to read as follows:

This chapter shall expire on June 1, ~~((2007))~~ 2013, coinciding with the expiration of chapter 70.148 RCW.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

- (13) 2000 c 16 s 4 & 1998 c 245 s 178 (uncodified);
- (14) 2000 c 16 s 5 & 1997 c 8 s 3 (uncodified); and
- (15) 2005 c 428 s 4 (uncodified)."

On page 1, line 1 of the title, after "agency," strike the remainder of the title and insert "amending RCW 70.148.020, 70.148.050, 70.148.900, 70.149.900, and 82.23A.902; repealing 2000 c 16 s 4 and 1998 c 245 s 178 (uncodified); repealing 2000 c 16 s 5 and 1997 c 8 s 3 (uncodified); repealing 2005 c 428 s 4 (uncodified); and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2678

and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Kagi and Roach spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2678 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2678, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Straw, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2678, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2680, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 41.32 RCW under the subchapter heading "plan 2" to read as follows:

(1) An active member who has completed a minimum of five years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience

outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government; and

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government; and

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the actuarial value of the resulting increase in the member's benefit calculated in a manner consistent with the department's method for calculating payments for reestablishing service credit under RCW 41.50.165.

(4) The member may pay all or part of the cost of the service credit to be purchased with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer also may pay all or a portion of the member's cost of the service credit purchased under this section.

NEW SECTION. Sec. 2. A new section is added to chapter 41.32 RCW under the subchapter heading "plan 3" to read as follows:

(1) An active member who has completed a minimum of five years of creditable service in the teachers' retirement system may, upon written application to the department, make a one-time purchase of up to seven years of service credit for public education experience outside the Washington state retirement system, subject to the following limitations:

(a) The public education experience being claimed must have been performed as a teacher in a public school in another state or with the federal government;

(b) The public education experience being claimed must have been covered by a retirement or pension plan provided by a state or political subdivision of a state, or by the federal government; and

(c) The member is not currently receiving a benefit or currently eligible to receive an unreduced retirement benefit from a retirement or pension plan of a state or political subdivision of a state or the federal government that includes the service credit to be purchased.

(2) The service credit purchased shall be membership service, and may be used to qualify the member for retirement.

(3) The member shall pay the actuarial value of the resulting increase in the member's benefit calculated in a manner consistent with the department's method for calculating payments for reestablishing service credit under RCW 41.50.165.

(4) The member may pay all or part of the cost of the service credit to be purchased with a lump sum payment, eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan. The department shall adopt rules to ensure that all lump sum payments, rollovers, and transfers comply with the requirements of the internal revenue code and regulations adopted by

the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(5) The employer also may pay all or a portion of the member's cost of the service credit purchased under this section.

Sec. 3. RCW 41.32.065 and 1991 c 278 s 1 are each amended to read as follows:

A member who has not purchased service credit under the provisions of section 1 or 2 of this act may elect under this section to apply service credit earned in an out-of-state retirement system that covers teachers in public schools solely for the purpose of determining the time at which the member may retire. The benefit shall be actuarially reduced to recognize the difference between the age a member would have first been able to retire based on service in the state of Washington and the member's retirement age.

NEW SECTION. Sec. 4. This act takes effect January 1, 2007."

On page 1, line 4 of the title, after "government;" strike the remainder of the title and insert "amending RCW 41.32.065; adding new sections to chapter 41.32 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2680 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED**

Representatives Conway and Alexander spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Engrossed Substitute House Bill No. 2680 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2680, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald,

McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2680, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

March 6, 2006

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:

- ENGROSSED SUBSTITUTE SENATE BILL NO. 5535,
- SECOND ENGROSSED SENATE BILL NO. 5714,
- SECOND SUBSTITUTE SENATE BILL NO. 6172,
- SUBSTITUTE SENATE BILL NO. 6223,
- SUBSTITUTE SENATE BILL NO. 6225,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6244,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6255,
- SUBSTITUTE SENATE BILL NO. 6287,
- SECOND SUBSTITUTE SENATE BILL NO. 6319,
- SENATE BILL NO. 6364,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6396,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6427,
- SENATE BILL NO. 6429,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6475,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 6, 2006

Mr. Speaker:

The President has signed:

- ENGROSSED SENATE BILL NO. 5048,
- ENGROSSED SENATE BILL NO. 5232,
- SUBSTITUTE SENATE BILL NO. 6161,
- SENATE BILL NO. 6674,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 6, 2006

Mr. Speaker:

The President has signed:

- SUBSTITUTE SENATE BILL NO. 5042,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 5204,
- SECOND SUBSTITUTE SENATE BILL NO. 5717,
- SUBSTITUTE SENATE BILL NO. 5838,
- SUBSTITUTE SENATE BILL NO. 6168,
- ENGROSSED SUBSTITUTE SENATE BILL NO. 6189,
- SENATE BILL NO. 6231,
- SENATE BILL NO. 6371,
- ENGROSSED SENATE BILL NO. 6376,
- SUBSTITUTE SENATE BILL NO. 6382,
- SUBSTITUTE SENATE BILL NO. 6401,

SENATE BILL NO. 6411,
 SENATE BILL NO. 6416,
 SUBSTITUTE SENATE BILL NO. 6417,
 SUBSTITUTE SENATE BILL NO. 6441,
 SENATE BILL NO. 6463,
 SUBSTITUTE SENATE BILL NO. 6473,
 SENATE BILL NO. 6504,
 SENATE BILL NO. 6531,
 SENATE BILL NO. 6539,
 SENATE BILL NO. 6545,
 SUBSTITUTE SENATE BILL NO. 6570,
 SUBSTITUTE SENATE BILL NO. 6571,
 SUBSTITUTE SENATE BILL NO. 6572,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,
 ENGROSSED SENATE BILL NO. 6606,
 SENATE BILL NO. 6658,
 SUBSTITUTE SENATE BILL NO. 6670,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6679,
 SENATE BILL NO. 6720,
 SENATE BILL NO. 6723,
 SENATE BILL NO. 6762,
 SENATE BILL NO. 6766,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6776,
 SUBSTITUTE SENATE BILL NO. 6791,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6802,
 SENATE BILL NO. 6816,
 SENATE BILL NO. 6861,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6870,
 ENGROSSED SENATE JOINT MEMORIAL NO. 8019,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

SIGNED BY THE SPEAKER

The Speaker signed:

SUBSTITUTE SENATE BILL NO. 5042,
 ENGROSSED SENATE BILL NO. 5048,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5204,
 ENGROSSED SENATE BILL NO. 5232,
 SECOND SUBSTITUTE SENATE BILL NO. 5717,
 SUBSTITUTE SENATE BILL NO. 5838,
 SUBSTITUTE SENATE BILL NO. 6161,
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 SUBSTITUTE SENATE BILL NO. 6571,
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 ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,
 ENGROSSED SENATE BILL NO. 6606,
 SENATE BILL NO. 6658,
 SUBSTITUTE SENATE BILL NO. 6670,
 SENATE BILL NO. 6674,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6679,

SENATE BILL NO. 6720,
 SENATE BILL NO. 6723,
 SENATE BILL NO. 6762,
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 ENGROSSED SUBSTITUTE SENATE BILL NO. 6776,
 SUBSTITUTE SENATE BILL NO. 6791,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6802,
 SENATE BILL NO. 6816,
 SENATE BILL NO. 6861,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6870,
 ENGROSSED SENATE JOINT MEMORIAL NO. 8019,

POINT OF PERSONAL PRIVILEGE

Representative Ericks: thanks Security

POINT OF PERSONAL PRIVILEGE

Representative DeBolt: thanks Security

MESSAGE FROM THE SENATE

March 6, 2006

Mr. Speaker:

The Senate refuses to concur in the House amendments to ENGROSSED SUBSTITUTE SENATE BILL NO. 6384 and asks the House for a Conference thereon. The President has appointed the following members as Conferees: Senators Fraser, Prentice and Brandland.

There being no objection, the House granted the Senate's request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 6384. The Speaker (Representative Lovick presiding) appointed Representatives Dunshee, Ormsby and Jarrett.

MESSAGE FROM THE SENATE

March 6, 2006

Mr. Speaker:

The Senate refuses to concur in the House amendments to ENGROSSED SUBSTITUTE SENATE BILL NO. 6386 and asks the House for a Conference thereon. The President has appointed the following members as Conferees: Senators Prentice, Doumit and Zarelli.

On motion of Representative Sommers, the House granted the Senate's request for a conference on ENGROSSED SUBSTITUTE SENATE BILL NO. 6386. The Speaker (Representative Lovick presiding) appointed Representatives Sommers, Fromhold and Alexander.

MESSAGE FROM THE SENATE

March 3, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2812, with the following amendment:

On page 1, after line 3, insert the following:

"**Sec. 1.** RCW 28A.500.030 and 2005 c 518 s 914 are each amended to read as follows:

Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; to

(b) The statewide average twelve percent levy rate.

(2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's twelve percent levy amount, multiplied by the following percentage:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; divided by

(b) The district's twelve percent levy rate.

(3) Calendar year 2003 allocations and maximum eligibility under this chapter shall be multiplied by 0.99.

(4) From January 1, 2004, to December 31, 2005, allocations and maximum eligibility under this chapter shall be multiplied by 0.937.

(5) From January 1, 2006, to ~~(June 30, 2007)~~ December 31, 2006, allocations and maximum eligibility under this chapter shall be multiplied by 0.9563. Beginning with calendar year 2007, allocations and maximum eligibility under this chapter shall be fully funded at one hundred percent and shall not be reduced."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 1 of the title, after "RCW" insert "28A.500.030 and"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2812 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Quall and Anderson spoke in favor the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2812 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2812, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2812, as amended by the Senate having received the constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 2, 2006

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2836, with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.79 RCW to read as follows:

(1) The reading achievement account is created in the custody of the state treasurer. The purposes of the account are to establish a depository for state and other funds made available for reading achievement, and to ensure that unspent amounts appropriated for reading achievement continue to be available for that purpose in future biennia.

(2) The director of early learning shall deposit in the account all appropriations to the department and nonstate moneys received by the department for reading achievement, including reading foundations and implementation of research-based reading models.

Moneys deposited in the account do not lapse at the close of the fiscal period for which they were appropriated. Both during and after the fiscal period in which moneys were deposited in the account, the director may expend moneys in the account only for the purposes for which they were appropriated, and the expenditures are subject to any other conditions or limitations placed on the appropriations.

(3) Expenditures from the account may be used only for reading achievement, including reading foundations, implementation of research-based reading models, and grants to school districts.

(4) Only the director of early learning or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 2. RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), ~~((and))~~ the life sciences discovery fund, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

On page 1, line 1 of the title, after "achievement;" strike the remainder of the title and insert "reenacting and amending RCW 43.79A.040; and adding a new section to chapter 43.79 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

On motion of Representative Sommers, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2836 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Alexander and Sommers spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be final passage of Substitute House Bill No. 2836 as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2836, as amended by the Senate and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SUBSTITUTE HOUSE BILL NO. 2836, as amended by the Senate having received the constitutional majority, was declared passed.

There being no objection, the House advanced to the sixth order of business.

SECOND READING**HOUSE BILL NO. 2880, By Representative McIntire;
by request of Department of Revenue****Regarding insurance premiums tax.**

The bill was read the second time.

There being no objection, Substitute House Bill No. 2880 was substituted for House Bill No. 2880 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2880 was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative McIntire spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2880.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2880 and the bill passed the House by the following vote: Yeas - 63, Nays - 35, Absent - 0, Excused - 0.

Voting yea: Representatives Anderson, Appleton, Blake, Chandler, Chase, Clements, Clibborn, Cody, Conway, Crouse, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood and Mr. Speaker - 63.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Buck, Buri, Campbell, Condotta, Cox, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Strow, Sump and Woods - 35.

SUBSTITUTE HOUSE BILL NO. 2880, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE SENATE BILL NO. 6558, By
Senate Committee on Ways & Means (originally sponsored
by Senators Brown, Hewitt, Eide, Kohl-Welles, Benson,
McAuliffe, Benton, Kline and Keiser)****Improving the state of Washington's economic,
cultural, and educational standing in the motion picture
industry.**

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was before the House for purpose of amendment. (For Committee amendment, see Journal, 50th Day, February 27, 2006.)

Representative McIntire moved the adoption of amendment (1143) to the committee amendment:

On page 6 of the amendment, line 3, strike all of subsection (3) and insert the following:

"(3) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of:

(a) One million dollars; or

(b)(i) Through calendar year 2008, an amount equal to one hundred percent of the contributions made by the person to a program during the calendar year; and

(ii) For calendar years after 2008, an amount equal to ninety percent of the contributions made by the person to a program during the calendar year."

Representatives McIntire and Orcutt spoke in favor of the adoption of the amendment to the committee amendment.

Representative Schual-Berke spoke against the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

Representative McIntire moved the adoption of amendment (1157) to the committee amendment:

On page 6 of the amendment, line 24, after "exceed" strike "five million" and insert "three million five hundred thousand"

On page 6 of the amendment, line 28, after "of the" strike "five million" and insert "three million five hundred thousand"

Representatives McIntire and Orcutt spoke in favor of the adoption of the amendment to the committee amendment.

The amendment to the committee amendment was adopted.

The committee amendment as amended was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives McIntire and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 6558, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 6558, as amended by the House and the bill passed the House by the following vote: Yeas - 90, Nays - 8, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McDermott, McDonald, Miloscia, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 90.

Voting nay: Representatives Cody, Dickerson, Kenney, McCune, McIntire, Moeller, Schual-Berke and Upthegrove - 8.

SECOND SUBSTITUTE SENATE BILL NO. 6558, as amended by the House, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 6686, By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Esser, Kastama, Johnson, Kline, Finkbeiner, Weinstein, Keiser, Berkey and McAuliffe)

Authorizing a local sales and use tax that is credited against the state sales and use tax.

The bill was read the second time.

Representative Orcutt moved the adoption of amendment (1137):

On page 1, line 18, strike "and"

On page 2, line 4, after "basis" insert "; and

"(c) The city has submitted findings that support the ordinance or resolution to the state auditor, and the state auditor has approved the findings"

On page 2, line 24, strike subsection (5) and insert:

"(5) All revenue collected under this section shall be deposited in a separate account and used solely to provide, maintain, and operate municipal services for the annexation area. The city shall keep adequate records for expenditures from the account to show that expenditures from the account are used solely for these purposes."

Representative Orcutt spoke in favor of the adoption of the amendment.

Representative McIntire spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire, Springer and Nixon spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6686.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6686 and the bill passed the House by the following vote: Yeas - 75, Nays - 23, Absent - 0, Excused - 0.

Voting yea: Representatives Alexander, Anderson, Appleton, Blake, Buck, Campbell, Chase, Clibborn, Cody, Conway, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Nixon, O'Brien, Ormsby, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schual-Berke, Sells, Shabro, Simpson, Sommers, Springer, Sullivan, B., Sullivan, P., Takko, Talcott, Tom, Upthegrove, Walsh, Williams, Wood, Woods and Mr. Speaker - 75.

Voting nay: Representatives Ahern, Armstrong, Bailey, Buri, Chandler, Clements, Condotta, Cox, Crouse, Curtis, Hinkle, Holmquist, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Schindler, Serben, Skinner, Strow, Sump and Wallace - 23.

SUBSTITUTE SENATE BILL NO. 6686, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 6512, By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Fraser, Pridemore, Honeyford, Poulsen, Mulliken, Regala, Rockefeller, Delvin and Kline)

Enhancing air quality at truck stops.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives McIntire and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6512.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6512 and the bill passed the House by the following vote: Yeas - 95, Nays - 3, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 95.

Voting nay: Representatives Anderson, Moeller and Rodne - 3.

SUBSTITUTE SENATE BILL NO. 6512, having received the necessary constitutional majority, was declared passed.

On motion of Representative Chandler, the House immediately reconsidered the vote on third reading by which SUBSTITUTE HOUSE BILL NO. 2880 passed the House.

RECONSIDERATION

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2880 on reconsideration.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2880 on reconsideration and the bill passed the House by the following vote: Yeas - 55, Nays - 43, Absent - 0, Excused - 0.

Voting yea: Representatives Appleton, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eickmeyer, Ericks, Flannigan, Fromhold, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Linville, Lovick, McCoy, McDermott, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, O'Brien, Ormsby, Pettigrew, Quall, Roberts, Santos, Schual-Berke, Sells, Simpson, Springer, Sullivan, B., Sullivan, P., Takko, Tom, Upthegrove, Wallace, Williams, Wood and Mr. Speaker - 55.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Buck, Buri, Campbell, Chandler, Clements, Condotta, Cox, Crouse, Curtis, DeBolt, Dunn, Ericksen, Haler, Hankins, Hinkle, Holmquist, Kilmer, Kretz, Kristiansen, McCune, McDonald, Newhouse, Nixon, Orcutt, Pearson, Priest, Roach, Rodne, Schindler, Serben, Shabro, Skinner, Sommers, Strow, Sump, Talcott, Walsh and Woods - 43.

SUBSTITUTE HOUSE BILL NO. 2880, on reconsideration, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 6, 2006

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 6415 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the rules were suspended and SENATE BILL NO. 6415 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 6415, By Senators Pridemore, McAuliffe, Mulliken and Kohl-Welles

Allowing interpreters to assist hearing impaired persons during driver's license examinations.

Representative Hudgins moved the adoption of amendment (1162):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.130 and 1999 c 6 s 20 are each amended to read as follows:

(1) The director shall prescribe the content of the driver licensing examination and the manner of conducting the examination, which shall include but is not limited to:

(a) A test of the applicant's eyesight and ability to see, understand, and follow highway signs regulating, warning, and directing traffic;

(b) A test of the applicant's knowledge of traffic laws and ability to understand and follow the directives of lawful authority, orally or graphically, that regulate, warn, and direct traffic in accordance with the traffic laws of this state;

(c) An actual demonstration of the applicant's ability to operate a motor vehicle without jeopardizing the safety of persons or property. If the applicant is deaf or hearing impaired, the applicant may be accompanied by an interpreter to assist the applicant during the demonstration. The interpreter will be of the applicant's choosing from a list provided by the department of licensing; and

(d) Such further examination as the director deems necessary:

(i) To determine whether any facts exist that would bar the issuance of a vehicle operator's license under chapters 46.20, 46.21, and 46.29 RCW; and

(ii) To determine the applicant's fitness to operate a motor vehicle safely on the highways.

(2) If the applicant desires to drive a motorcycle or a motor-driven cycle he or she must qualify for a motorcycle endorsement under RCW 46.20.500 through 46.20.515.

NEW SECTION. Sec. 2. This act does not affect the right of state employees to collectively bargain wages, hours, and other terms and conditions of employment under chapter 41.80 RCW."

Correct the title.

Representatives Hudgins and Woods spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House was placed on final passage.

Representatives Hudgins and Woods spoke in favor of passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Senate Bill No. 6415, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6415, as amended by the House and the bill passed the House by the following vote: Yeas - 98, Nays - 0, Absent - 0, Excused - 0.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Blake, Buck, Buri, Campbell, Chandler, Chase, Clements, Clibborn, Cody, Condotta, Conway, Cox, Crouse, Curtis, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Hinkle, Holmquist, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kilmer, Kirby, Kretz, Kristiansen, Lantz, Linville, Lovick, McCoy, McCune, McDermott, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Murray, Newhouse, Nixon, O'Brien, Orcutt, Ormsby, Pearson, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Santos, Schindler, Schual-Berke, Sells, Serben, Shabro, Simpson, Skinner, Sommers, Springer, Strow, Sullivan, B., Sullivan, P., Sump, Takko, Talcott, Tom, Upthegrove, Wallace, Walsh, Williams, Wood, Woods and Mr. Speaker - 98.

SENATE BILL NO. 6415, as amended by the House, having received the necessary constitutional majority, was declared passed.

There being no objection, the Rules Committee was relieved of the following bills, and the bills were placed on the Second Reading calendar:

HOUSE BILL NO. 2462,
SENATE BILL NO. 6671,
SENATE BILL NO. 6676,

There being no objection, the Committee on Appropriation was relieved of the following bills, and the bills were placed on the Second Reading calendar:

ENGROSSED HOUSE BILL NO. 2716,
SENATE BILL NO. 6219,

SIGNED BY THE SPEAKER

The Speaker signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1020
ENGROSSED HOUSE BILL NO. 1069
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1080
SUBSTITUTE HOUSE BILL NO. 1107
THIRD SUBSTITUTE HOUSE BILL NO. 1226
SUBSTITUTE HOUSE BILL NO. 1257
SECOND SUBSTITUTE HOUSE BILL NO. 1384
FOURTH SUBSTITUTE HOUSE BILL NO. 1483
SUBSTITUTE HOUSE BILL NO. 1510
SUBSTITUTE HOUSE BILL NO. 1650
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1850
HOUSE BILL NO. 1966
SECOND SUBSTITUTE HOUSE BILL NO. 2002
SUBSTITUTE HOUSE BILL NO. 2033
SUBSTITUTE HOUSE BILL NO. 2233
ENGROSSED HOUSE BILL NO. 2322
SECOND SUBSTITUTE HOUSE BILL NO. 2342

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HOUSE BILL NO. 3139
HOUSE BILL NO. 3156
SUBSTITUTE HOUSE BILL NO. 3178
SUBSTITUTE HOUSE BILL NO. 3182
HOUSE BILL NO. 3205
HOUSE BILL NO. 3277

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 10:00 a.m., March 7, 2006, the 58th Day of the Regular Session.

FRANK CHOPP, Speaker

RICHARD NAFZIGER, Chief Clerk

Draft

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HOUSE OF REPRESENTATIVES (Representative Lovick presiding)
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